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MORAL SERIES

BY
RODERICK MacEACHEN
Priest of Columbus Diocese

Justice and Rights

VOLUME IV

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RODERICK MACEACHEN

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MORAL SERIES

Vol. IV

CHAPTER I

The Seventh and Tenth Commandments

THE Seventh Commandment is: "Thou shalt not steal."[1] Here God commands us to respect our neighbor's property and all his rights.

We must give to all men what belongs to them. We must not damage their goods or property. We must avoid fraud and deceit in our dealings with them. We must deal honestly with them. We must render them justice in all things. This is the meaning of the Seventh Commandment.

The Tenth Commandment is related

[1] Exodus xx, 15.

to the Seventh. It is this: "Thou shalt not covet thy neighbor's house . . . nor his servant, nor his handmaid, nor his ox, nor his ass, nor anything that is his."[2]

The Tenth Commandment commands us to respect our neighbor's property even in our heart. We should not desire unjustly to possess his goods. We should not envy him his possessions.

Even the desire to do injustice to our neighbor is sinful. The mere intention to defraud another is a sin against justice.

Thus God commands us to respect our neighbor's rights. He would have justice exist amongst all men.

The civil law also protects the rights of man. Many laws are made for the welfare of society. They interpret the natural laws. They define the rights and obligations of men. They set

[2] Exodus xx, 17.

down rules of conduct. They prescribe the forms to be followed in the administration of justice.

Formerly Roman Law was almost universally used amongst nations. Hence, it became known as the Common Law. Now nearly every nation has its own code of laws.

Civil laws that define rights, ordinarily bind in conscience. They are binding even before a decision has been given in court.

Public authority has a right to make laws for the common good. These laws bind in conscience. They procure civil justice. Hence, we are bound in justice to obey them.

Certain civil laws do not bind in conscience until a decision has been given in court. Such are laws that annul actions that are by nature valid. They are generally called the formalities of the law.

For example, the civil law demands

that bequests be made in writing. Now a dying man, by word of mouth, makes a bequest to a friend. The man may indeed rightfully keep or demand the bequest. But his title to the bequest is contested. The court decides against him. He is then bound to abide by the decision of the law.

Ecclesiastical law defines both the positive and the natural law of God. It lays down norms and precepts for the benefit of religion. These laws are binding in conscience.

The Church is the great champion of human rights. She ever stands as the promoter and protector of justice amongst men.

The Church amply explains the Seventh Commandment. She enters into every detail of justice and rights in her moral teachings. Thus she guides her children in the practice of honesty and justice.

CHAPTER II

Justice and Rights

"JUSTICE is a firm and lasting intention to render everyone his rights."[1]

Those things that are due another are called his rights. These form the object of justice. It is these things that justice renders to everyone.

A right may also be considered as a title by which something is due to a person. It is then the motive upon which justice is based.

Justice in a wider sense is sometimes used to mean virtue. Thus our Lord said: "Unless your justice abound more than that of the scribes and Pharisees, you shall not enter into the kingdom of heaven."[2]

[1] Ulpianus, Digest. de Just. et Jur. I, 10.
[2] St. Matthew v, 20.

Justice is often taken to mean sanctifying grace. It here signifies that the requirements of God's law have been fulfilled. The divine law has been given its due.

Justice is also taken to mean a just and upright action. St. John the Baptist protested against baptizing Christ. "And Jesus answering, said to him: Suffer it to be so now. For so it becometh us to fulfil all justice."[3]

Good habits are sometimes called justice. "I walk in the way of justice,"[4] says the Book of Proverbs.

Justice proper is a virtue. It is one of the four cardinal virtues. It is a virtue by which we render to everyone his rights. The virtue of justice pertains to our relations with others. It binds us to establish due proportion of things toward those around us.

Justice constitutes the due position

[3] St. Matthew iii, 15.
[4] Proverbs viii, 20.

of things. It equalizes external things with external persons. Hence, the apothecary's balance is the symbol of justice.

Justice looks to others. It does not look to the person who practices it. The other virtues perfect the man himself. Justice impels him to do what is right and proper toward others.

Justice demands that we render to others what is properly theirs. There are rights improperly so called. Justice does not bind us to render these rights.

A rich man may have poor cousins. They may be in destitution. The rich man may be bound to help them. Yet it is an obligation of charity and piety, not of justice.

There are three kinds of justice. They are legal, distributive and commutative justice. To these vindictive justice may be added.

Legal justice is also called general justice. It renders to the State what

is its just due. It regulates the relations of the individual to the State.

Every citizen has duties toward the State. He must pay taxes. He must defend his country. He must vote for upright public officials. Thus he contributes his share to the common good.

The State has certain obligations toward individuals. It imposes burdens on them. It grants favors. It confers honors. A due proportion in all this is called distributive justice.

The State must punish criminals. She must vindicate her laws. To do this is called vindictive justice. It is merely a phase of legal justice.

Commutative justice is also called particular justice. It regulates the relations that exist between man and man. It demands that each man render to every other man his just dues.

Commutative justice also establishes the due proportion of things amongst moral persons. Such are societies and

rganizations that have a legal status. hey are incorporated. They have ights. They may demand justice. hey must also render justice.

Legal and distributive justice are ot, strictly speaking, justice. They ight be called forms of justice. They o not deal with strict rights. Yet hey impose a grave obligation of stice. Sins against these forms of stice can be grave.

Justice is the proper arrangement of uman rights. It is the basis of social rder. It is the foundation upon which vilized nations must stand.

The virtue of justice is a fundamental f the Christian life. To be a true hristian a man must practice justice. he other virtues, in a manner, depend pon the virtue of justice. For this ason it is called a cardinal virtue. The beginning of a good way is to do stice."[5]

roverbs xvi, 5.

CHAPTER III

Ownership

THE right to do what we will with a thing is called ownership. An owner possesses his property. He may use it. He may sell it. He may give it away. He may destroy it. To him belong all the rights in the property.

The law may limit a man's rights in his own property. He must observe the requirements of justice in dealing with his property. Thus he may be forbidden to use his property in a manner that would cause injury to others.

A man may possess rights in a thing. Yet he may not be its owner. He rents a house. He has indeed rights in the house. Yet he is not its owner.

Ownership may be subject to certain

conditions. The civil law may set certain restraints upon owners of real estate.

Ownership may be restricted by mutual agreement. A man buys a house. He admits a clause in the deed whereby the house can never be used as a saloon.

The title to property may be limited by the testator. A man may will property to another with the condition that he can never sell it.

The real owner of a thing is said to have proprietary rights in his possession. He holds his property in "fee simple." Yet the State has certain jurisdiction and political rights in all private property.

For any just reason the State may take over any particular private property. The property may be necessary for the common good. The State buys it from the owner. He is bound to sell. The State may even fix the price.

The State may enter upon private property when necessary. This is the right of jurisdiction that belongs to the State. In case of need or great utility, the State may use the property of any citizen. Officers of the law may be authorized to enter any private property.

Possessions are threefold. They are life, honor, and the goods of this world. Yet we are not properly the owners of our lives. God retains dominion over our lives. We are the administrators of our lives. We use them for the benefit of soul and body.

We can have dominion over material things. We can own them. It matters not whether they be animate or inanimate things.

Man has a natural right to possess private property. God created the material world for the benefit of man. The individual man must support himself and family. He must provide for

the present and for the future. He must provide a home for his family. All this supposes private property.

Man has always enjoyed the right of possessing private property. In the beginning the human race was small. The earth was largely uninhabited. Men could occupy any land they selected. Thus they became its owners.

The right of private property made civil government possible. Families settled in certain regions. They had their possessions. Thus, they had common interests. They then formed societies to protect the common good.

Without the right to private property there could be no stable government. Men would become nomads. They would have no interests to keep them in one place. They would have no incentive to improve natural resources. They would lack motives for establishing a permanent home.

They would be little moved to patriotism.

The right to possess private property is sacred. It comes from God. The State can not take it away. This right is above the authority of the civil law.

"Neither do we, at this stage, need to bring into action the interference of the State," says Pope Leo XIII. "Man precedes the State and possesses, prior to the formation of any State, the right of providing for the sustenance of his own body. Now to affirm that God has given the earth for the use and enjoyment of the whole human race is not to deny that private property is lawful. For God has granted the earth to mankind in general. Not in the sense that all without distinction can deal with it as they like, but rather that no part of it has been assigned to anyone in particular, and that the limits of private

possession have been left to be fixed by man's own industry, and by the laws of individual races.

"Moreover, the earth, even though apportioned among private owners, ceases not thereby to minister to the needs of all, inasmuch as there is no one who does not sustain life from what the land produces.

"Those who do not possess the soil, contribute their labor; hence, it may be truly said that all human subsistence is derived either from labor on one's own land, or from some toilsome calling which is paid for either in the produce of the land itself, or in that which is exchanged for what the land brings forth.

"Here again we have further proof that private ownership is in accordance with the law of nature. Truly, that which is required for the preservation of life, and for life's well-being, is produced in great abundance from the

soil, but not until man has brought it into cultivation and expended upon it his solicitude and skill. Now, when man thus turns the activity of his mind and the strength of his body towards procuring the fruits of nature, by such acts he makes his own that portion of nature's field which he cultivates—that portion on which he leaves, as it were, the impress of his individuality; and it can not but be just that he should possess that portion as his very own, and have a right to hold it without anyone being justified in violating that right."[1]

[1] Pope Leo XIII, "Condition of the Working Classes," Encyclical of May 15, 1891.

CHAPTER IV

Slavery

SLAVERY is opposed to the spirit of the Gospel. God does not give man dominion over his own life. Much less does He give him dominion over another's life.

No man can be the absolute owner of a human being. He can not possess him as a chattel. He can not own him as he might own a horse or a cow.

Slavery was once common throughout the whole world. At the coming of Christ, practically every nation held a large portion of its people in slavery. Nearly three-fourths of the population in the pagan Roman Empire were slaves.

The Church found the human race in this sad plight. Throughout the

centuries she opposed and combated this evil. Prudently and zealously she taught men the principles of human liberty. At last slavery, properly so-called, has been banished from Christian nations.

It was impossible for the Church to overthrow slavery by one bold stroke. During long ages she could but teach the equality of man. She could but preach the universal brotherhood of all men.

Soon the slave and his master knelt side by side before the altar. Here for the first time they were equal. The Church urged the master to be kind to his slaves. She reminded him that the slave was also a child of God, destined for eternal bliss.

The slave was admitted with his master to Holy Communion. No distinction was made. After death bondmen and freemen were buried side by side. Nor did the inscriptions on

tombs ever indicate the condition of slavery.

The Church urged the slave to obey his master. She gave him hope and courage in his sad plight. She received him as her child of love.

Slaves sometimes became great saints. Many became martyrs. They are honored on the altars of the Church.

St. Paul gives the motive for obedience in the slave. "Exhort servants to be obedient to their masters, in all things pleasing, not gainsaying: not defrauding, but in all things showing good fidelity, that they may adorn the doctrine of God our Saviour in all things."[1]

Again, the Apostle preaches hope to the slaves: "Wast thou called, being a bondman? care not for it, but if thou mayest be made free, use it rather.

[1] Epistle to Titus ii, 9, 10.

"For he that is called in the Lord being a bondman, is the freeman o the Lord."[2]

Many of the early Christians liber ated their slaves. They treated them with great kindness. But the Churc never ceased her endeavors to wip out the practice of slavery.

St. Augustine says that sin is th cause of slavery. "No one," he says "is by nature in which God create him, a slave to another man."[3]

The Church later bought many slaves so that she could give them their freedom.

The condition of Christian slave was very favorable. They were wel cared for. Many of them becam monks and priests. Some even becam bishops.

[2] 1 Epistle to the Corinthians vii, 21, 22.

[3] De Civitate Dei, lib. XX, c. XV, tom. VII, p. 423 Antwerp, 1700.

In the Middle Ages the principle of a certain bondage seems to have been admitted. Yet it was not slavery, properly so called. Prisoners of war could be held in bondage. Men could sell their freedom. Thus they became bondsmen. Others were slaves by birth. Criminals were sometimes held for penal servitude.

Yet this is not to admit that the principle of real slavery is just. These persons were nothing else than life-long servants. They simply worked for their livelihood.

Certain criminals are today held in bondage for life. They are condemned to penal servitude in prison.

Pius V, Clement VIII and Urban issued decrees against slavery. Pope Urban reissued the decree of Paul III. He excommunicated "whoever dared make an Indian a slave, to sell him or exchange him or separate him from

his family or to rob him of his possessions."

For sixteen centuries the Church alone opposed slavery. During that time slavery had almost disappeared from civilized nations.

During the last century other influences helped to abolish the last vestiges of slavery in Europe and America.

It is difficult for us, in our day, to understand how Christians could have countenanced slavery. Yet we must consider the difficulties of other times.

In pagan times practically all manual labor was performed by slaves. The spirit of Christianity raised the workingman to his present state.

Laborers are indeed often sadly oppressed today. They are oppressed by those who have lost the spirit of true Christianity. There are men today who exploit laborers. Sometimes

they do not even show them the consideration that the slave once received from his master. Too often the employer banishes the ethical question from his business. He is not concerned as to whether or not his employees are able to support themselves and families.

CHAPTER V

Wages

POPE LEO XIII is recognized as the great champion of workingmen in modern times. He gave forth a veritable classic on the position of the Church toward labor and capital.

"All agree . . . that some remedy must be found, and found quickly, for the misery and wretchedness pressing so heavily and unjustly at this moment on the vast majority of the working classes.

"For the ancient workingmen's Guilds were abolished in the last century, and no other organization took their place. Public institutions and the very laws have set aside the ancient religion. Hence, by degrees, it has come to pass that workingmen

have been surrendered, all isolated and helpless, to the hard-heartedness of employers and the greed of unchecked competition. The mischief has been increased by rapacious usury, which, although more than once condemned by the Church, is nevertheless, under a different guise, but with like injustice, still practiced by covetous and grasping men. To this must be added the system of working by contract, and the concentration of so many branches of trade in the hands of a few individuals; so that a small number of very rich men have been able to lay upon the teeming masses of the laboring poor a yoke little better than that of slavery."[1]

Man has a right to the product of his own labor. His labor belongs to him. Hence, the fruits of his labor also belong to him.

A man may labor on his own land.

[1] Encyclical on the "Condition of the Working Classes," May 15, 1891.

He may use his own tools and his own resources. Then the whole product of his labor belongs to him.

Again, a man may labor on another's land. He may use another's tools. Here he is employed to work for another man. He is selling his labor for a stipulated price. He is working for wages.

Every wage-earner is entitled to a just wage. A just wage may be based upon the value that his labor produces. Or it may be based upon the right to a livelihood which every man has.

Wage may be looked upon as an economic question. Wealth is produced by the joint use of capital and labor. The laborer contributes his work. The employer contributes direction and the means of production. Then the product must be divided justly between employer and employee.

It is difficult to determine what portion of the product should be given

to the laborer. There can be no fixed rule to determine the share that each side has in the production of wealth. The due proportion might be approximately determined in individual cases.

Yet wages can not be entirely determined on a mere economic basis. For the wage-earner has little to do with economic values. He might receive a due proportion of his product. But the market value of the product may be too low. It may not insure him a living wage.

From a mere economic standpoint it seems certain Labor is entitled to a far greater portion of the product than Capital. This opinion is based upon the evidences in the case. It is drawn from the known results of modern industry.

The proprietors of modern industry ordinarily make large profits. Thousands of capitalists have amassed fab-

ulous fortunes. Industry has prospered. They are successful.

Every man has a natural right to a livelihood. He has a right to a wage that will enable him to provide properly for himself and family. It is not enough if he have food and clothing. He must have sufficient to educate his children. He must have sufficient to provide for his intellectual needs. He must have enough to provide reasonable recreation for himself and family. In a word, he must share the benefits and progress of the age.

This is the moral question that confronts the employer. He hires another man to work for him. He engages his time and energy. This time and energy are the means by which he is to provide for himself and family. It was for this that God intended them. Hence, the employer is bound to see that this time and energy serve their purpose. He is bound to pay a living wage.

The employer of labor has engaged the services of a rational creature. Hence, he has bargained for more than the work of a machine or an animal. He has contracted for rational power. He has assumed a moral responsibility. He becomes a party to the responsibilities of his employee.

The worker is entitled to more than the mere necessities of life. He is entitled to a decent livelihood. He should have all that is in keeping with the dignity of a human being.

"The sacredness of personality is violated when one man uses the life of another as a mere means to his own welfare. Similarly, a man's dignity is outraged when he is deprived of the opportunity to live a reasonable life. A decent livelihood is just as truly an essential need of man, is just as absolutely demanded by his intrinsic dignity, as subsistence, or security of life and limb. In all these rights the

vital and ultimate consideration is the intrinsic worth of the person."[2]

"Woe to him that buildeth up his house by injustice," says the prophet, "and his chambers not in judgment: that will oppress his friend without cause, and will not pay him his wages."[3]

Pope Leo XIII beautifully describes the relation that should exist between Capital and Labor. "Just as the symmetry of the human frame is the resultant of the disposition of the bodily members, so in a State it is ordained by nature that these two classes should dwell in harmony and agreement, and should, as it were, groove into one another, so as to maintain the balance of the body politic. Each needs the other; Capital can not do without Labor, nor Labor without Capital. Mutual agreement results in pleasant-

[2] "A Living Wage," John R. Ryan, S. T. D., The Macmillan Company, New York, 1912.

[3] Jeremias xxii, 13.

ness of life and the beauty of good order; while perpetual conflict necessarily produces confusion and savage babarity. Now, in preventing such strife as this, and in uprooting it, the efficacy of Christian institutions is marvelous and manifold. First of all, there is no intermediary more powerful than Religion (whereof the Church is the interpreter and guardian) in drawing the rich and the poor breadwinners together, by reminding each class of its duties to the other, and especially of the obligations of justice. Thus Religion teaches the laboring man and the artisan to carry out honestly and fairly all equitable agreements freely entered into; never to injure the property, nor to outrage the person, of an employer; never to resort to violence in defending their own cause, nor to engage in riot or disorder; and to have nothing to do with men of evil principles, who work

upon the people with artful promises, and excite foolish hopes which usually end in useless regrets, followed by insolvency. Religion teaches the wealthy owner and the employer that their work-people are not to be accounted their bondsmen; that in every man they must respect his dignity and worth as a man, as a Christian; that labor is not a thing to be ashamed of, if we lend ear to right reason and to Christian philosophy, but is an honorable calling, enabling a man to sustain his life in a way upright and creditable; and that it is shameful and inhuman to treat men like chattels to make money by, or to look upon them merely as so much muscle or physical power. Again, therefore, the Church teaches that, as Religion and things, spiritual and mental, are among the workingman's main concerns, the employer is bound to see that the worker has time for his religious duties; that

he be not exposed to corrupting influences and dangerous occasions; and that he be not led away to neglect his home and family, or to squander his earnings. Furthermore, the employer must never tax his work-people beyond their strength, or employ them in work unsuited to their sex or age. His great and principal duty is to give everyone a fair wage. Doubtless before deciding whether wages are adequate, many things have to be considered; but wealthy owners and all masters of labor should be mindful of this, that to exercise pressure upon the indigent and the destitute for the sake of gain, and to gather one's profit out of the need of another, is condemned by all laws, human and divine. To defraud anyone of wages that are his due is a crime which cries to the avenging anger of Heaven. 'Behold, the hire of the laborers . . . which by fraud hath been kept back by you, crieth; and the

cry of them hath entered into the ears of the Lord of sabaoth."[4] Lastly, the rich must religiously refrain from cutting down the workmen's earnings, whether by force, by fraud, or by usurious dealings and with all the greater reason because the laboring man is, as a rule, weak and unprotected, and because his slender means should in proportion to their scantiness be accounted sacred."[5]

Workingmen are often forced to demand justice. They form unions and brotherhoods. They have a right to form these associations. They are their best hope against the greed and injustice of employers. Pope Leo XIII warmly commends Labor Unions.

The great Pope speaks of all benefit associations. Then he adds: "The most important of all are working-

[4] Epistle of St. James v, 4.

[5] Pope Leo XIII, "Condition of the Working Classes," Encyclical of May 15, 1891.

men's Unions; for these virtually include all the rest. History attests what excellent results were brought about by the Artificers' Guilds of olden times. They were the means of affording not only many advantages to the workmen, but in no small degree of promoting the advancement of art, as numerous monuments remain to bear witness. Such Unions should be suited to the requirements of this our age—an age of wider education, of different habits, and of far more numerous requirements in daily life. It is gratifying to know that there are actually in existence not a few Associations of this nature, consisting either of workmen alone, or of workmen and employers together; but it were greatly to be desired that they should become more numerous and more efficient. We have spoken of them more than once; yet it will be well to explain here how notably they are needed, to show

that they exist of their own right, and what should be their organization and their mode of action.

"The consciousness of his own weakness urges man to call in aid from without. We read in the pages of Holy Writ: 'It is better that two should be together than one; for they have the advantage of their society. If one fall he shall be supported by the other. Woe to him that is alone, for when he falleth he hath none to lift him up.'[6] And further: 'A brother that is helped by his brother is like a strong city.'[7] It is this natural impulse which binds men together in associations which, it is true, can not be called societies in the full sense of the word, but which, notwithstanding, are societies."[8]

[6] Ecclesiastes iv, 9, 10.

[7] Proverbs xviii, 19.

[8] Encyclical on the "Condition of the Working Classes," May 15, 1891.

CHAPTER VI

Subject of Ownership

ONLY human beings can be owners. Every person is capable of ownership. Even the idiot and the unborn child may possess property.

Every legally constituted society may possess property. Such societies or companies are considered moral persons.

The owner of a thing has a right to use it. He also has a right to its fruits. Thus to the owner of an orchard belong the fruits thereof. To the owner of animals belongs the offspring thereof.

He who holds a thing as his own is said to be its possessor. If he has a right to the thing, he is the legitimate possessor. If he holds it unlawfully he is the illegitimate possessor.

A man may possess something that does not belong to him. If he firmly believes the thing belongs to him he is in good faith. Yet he may doubt whether the thing belongs to him. Then he is in doubtful faith. Again, he may know that the thing belongs to another. Then he is the possessor in bad faith.

The possessor of a thing has special privileges in law. He is always given the benefit of the doubt. Possession in good faith leads to the right of prescription.

The rights of certain persons to ownership are conditional. Minor children do not come into full possession of property. They are subject to the guidance of parents or guardians.

Yet there are certain things of which minor children may have free use and ownership. Such are gifts and other things that become their personal

property through their own individual effort.

Children who stay at home often earn wages. Strict justice might permit them to keep their earnings. They would then pay their board and keep. Yet this is not always in keeping with the spirit of filial piety.

Parents make great sacrifices to bring up their children. They may be poor. They have struggled perhaps in poverty to support and educate their children. Then indeed devoted sons and daughters are glad to help them in later years. It is their joy to bring home their little earnings. Thus they can, in some little measure, show their gratitude for the sacrifices that have been made for them.

There is generally a clear understanding between devoted parents and their children. Parents sometimes suggest that their children keep a certain portion of their wages. Or they re-

ceive the earnings from them. Then they give them a reasonable amount for their own little uses.

Sometimes parents suggest that working children merely pay their board. They wish to give them a chance to lay aside something for the future. Later perhaps they will leave their home. It will be well then if they have something saved.

Sometimes a son works with his father. It may be merely to help keep the family. For instance, a farmer's son helps on the farm. The son or daughter of a little storekeeper helps to care for the little business. Here they are not justified in demanding wages. Such help is naturally expected from sons and daughters.

But children sometimes perform extraordinary labor. It may be labor that does not pertain to their condition and state in life. It may not be necessary for the maintenance of the

family. Then they may demand reasonable wages.

Husbands and wives possess their ordinary goods in common. The title generally rests with the husband. Yet he can not dispose of real estate without the consent and signature of his wife.

A widow has certain rights in the property left by her husband. The amount is fixed by law.

A wife may possess property in her own right. Such is property which she owned before marriage. Such also is other property which she may have acquired by her own efforts. In this property generally her husband has no legal rights. Yet there are diverse laws in different States concerning this matter.

The Church has the right to possess property. The Church is a visible society. It possesses all the rights and privileges necessary for working out its proper end.

Certain material property is necessary for the Church. There must be places for worship and education. There must be houses, convents, hospitals and other institutions.

Authors of books have special rights in their works. Such also is true of paintings, music and other works of art and science. The State recognizes these rights. It gives the author a "Copyright." This is a legal title which may last for forty-two years.

The copyright protects the author of a work in his rights. None may reproduce his work without his permission.

Men have special rights in the useful machines, implements and devices which they invent. They are given a patent-right. This is intended to insure them the sole right to their invention. It ordinarily lasts for twenty-five years.

CHAPTER VII

Acquisition of Ownership

THERE are five ways of acquiring property. They are occupation, accession, labor, prescription and contract.

Occupation is the seizure of a thing that belongs to nobody. By occupation a person takes possession of something with the intention of making it his own.

Under certain conditions occupation is a legitimate means of acquiring ownership. By natural right things that belong to no one become the property of those who first take possession of them.

Occupation is lawful under given conditions. The thing must belong to no one. It may never have been the property of anyone. Or it may

have been abandoned. Then a person must take true and real possession of the thing. Finally, he must have the intention of making it his own.

Formerly land could be occupied. Now there is practically no land without an owner. In our day occupation refers only to animals and things found. By animals is meant beasts, fish and fowl of all kinds.

Animals are divided into three classes. There are domestic animals. Such are horses, cows, sheep, chickens, dogs and the like. Then there are animals that have been tamed. Such are birds, bees, doves. Fish and wild beasts kept in private property also belong to these. Lastly, there are wild animals.

Domestic animals are always supposed to have an owner. They may stray away and be lost. Yet they always belong to their owner.

A domestic animal may have fallen

into a pit. It may have been snatched from certain destruction. Yet it still belongs to the rightful owner. The one who rescued it is not allowed to keep it. However, he may demand reasonable recompense for his trouble.

Tame animals belong to their owners as long as they are held in custody. If they regain their natural liberty, they may then be seized.

Tamed animals are divided into two classes. Some never return when they are released from custody. Such are deer, tigers, birds and fish. When their owners can no longer regain possession of them, they are considered wild. They may then be seized.

Other tamed animals are wont to return to custody. Such are pigeons and bees. However, they may have wandered away for good. When they have been gone for a certain time they are considered wild. They may then be seized by others.

The law determines the time in which bees are considered to have become wild. Generally this is about two days. Other tamed animals are considered to have become wild after about a month and a half.

It is not permitted to entice tamed animals away from their owners. This might be done with pigeons and other tamed fowl. They could be enticed from their masters by giving them food.

Domestic and tamed animals sometimes injure another's property. They cause damage to lawns, gardens and fields. It is permitted to guard against this damage. Yet it is not always lawful to kill these trespassing animals. In some cases they may be killed. Yet the owner should first be warned to keep his animals away. Then it must be certain that the animals are causing notable damage. Besides, the person should only intend to protect his prop-

erty. If he can not otherwise protect his property he may kill these animals.

Furthermore, he may keep the animals he has killed. They are a recompense for the damage he has suffered. This presupposes that he has suffered a greater loss than the value of the animal.

It is lawful to capture wild animals if they are in their natural state. They belong to no one in particular. Thus anyone may take them for his own.

Wild animals become the property of those who capture them. It matters not whether a person captures them on his own property or on another's property.

Wild animals do not belong to the owner of the property upon which they are found. They have no owner. An owner may indeed prohibit others from hunting or fishing upon his property. He may demand recompense for

damage they may have done his property. Yet the wild animals they have taken belong to them.

Wild beasts that are penned in upon a property belong to the owner of the property. Likewise, fish that are kept in a pond from which they can not escape belong to the owner. Others who capture such animals without the owner's consent, sin against justice.

A wounded wild animal belongs to the hunter who wounded it. Yet to be his, it must be so wounded that it can not escape. A trapped animal belongs to him who set the trap.

Another case is more complex. A hunter sets a trap on another man's farm. No third party has a right to take the animal trapped. The animal properly belongs to the hunter. Yet the farmer can keep him off his farm. Hence, the farmer may liberate the animal. It is probable that he can also take possession of the animal.

Finding is a method of occupation. Things found are divided into four classes. There are treasures. There are things that belong to nobody. There are things that have been cast away. Then there are things that have been lost.

Treasures are precious things that have been hidden away. No one can prove that they are his property. Here is not meant natural treasures such as veins of gold and other metals.

To find a thing means to discover it and seize it. It is not enough merely to see a thing.

A treasure has been hidden away in the earth. Several men are digging for it. One man uncovers it. Another sees it and seizes it. Yet the treasure does not rightfully belong to him. It belongs to the man who discovered it. However, if he does not claim it anyone else may then take possession of it.

Civil law sometimes declares that hidden treasures belong to the property on which they are found. Then they may be found by another than the owner. Here part of the treasure belongs to the owner of the property. The law generally decides that the treasure is to be divided between the finder and the owner of the property. This law binds in conscience. It would be a sin against justice to keep a whole treasure thus found.

No one is permitted to seek treasure on another's property without the consent of the owner. The law generally awards such treasure to the owner of the property. Not so, however, if a man be lawfully engaged upon another's property. He may accidentally find treasure. Then the law generally awards him an equal portion with the owner of the property.

Money or other valuables may be found in old garments or in a house.

The owner could not find it. Such things are considered as hidden treasure. If the owner of the property finds it, all belongs to him. If another finds it he receives half. The other portion belongs to the owner of the property.

Things that belong to nobody become the property of the finder. Thus the natural law decides. However, the civil law may decide that they become wholly or in part the property of another.

Veins of metal, springs and the like belong to the land in which they are found. Thus they belong to the owner of the property. However, the government, in some countries, reserves certain rights on such metals.

Gems, precious stones, nuggets of gold and the like belong to the finder. They were nobody's property.

Things cast away belong to those who take possession of them. How-

ever, the civil law may decide otherwise.

Goods washed ashore from a shipwreck are not considered cast away. Nor are things that were cast overboard in a storm.

Wood and other things washed away by a flood are not always considered as abandoned. Yet the circumstances may make them such. The owner may not show any concern for them. He may have no hope or thought of recovering them. Then they may be taken by others.

Fruits, such as nuts, grapes, ears of corn and the like, are considered abandoned after the crop has been gathered in.

A man may die without heirs and without a will. He leaves property. This is not considered abandoned. It must be turned over to the court.

Things that have been lost have an owner. Nor have they been hidden

away. In this they differ from hidden treasure.

A finder may leave the thing found untouched. He is not obliged in justice to take charge of it. However, he is ordinarily bound in charity to take care of it.

He who takes a thing found is bound to seek the owner of it. Yet he does so at the owner's expense. In the meantime he is bound to preserve the thing found.

When the owner is found, the finder is bound to restore his lost article to him. The owner or the law may have offered a reward for the lost article. This the finder may demand. If he has found money, he may retain the amount offered as a reward.

The finder must carefully seek the owner of the article he has found. But he may not be able to find him. Then he may keep the article as his own. This he does by right of occupation.

The article is then considered a thing abandoned.

The civil law determines the length of time required before a lost article becomes the property of the finder. The time is from one to three years. After the lapse of this period the owner loses his right to the lost article. It then becomes the property of the finder.

CHAPTER VIII

Accession, Labor and Prescription

ACCESSION is a method of acquiring ownership. Accession may be natural. It may also be industrial. Then there is mixed accession.

Natural accession can take place in a threefold manner. It may be the fruits that spring spontaneously from trees, plants, and the earth. These fruits belong to the owner. The axiom says: "Things bear fruits to their owners."

The offspring of animals is a natural accession. These belong to the owner of the animals. Offspring follows the animal that bore it. The civil law decides such cases.

Natural accession may take place

by the action of floods. Soil is sometimes washed from one property to another. It then belongs to the property on which it is found.

At times a sudden upheaval of land takes place. A notable portion of one property is suddenly transferred to another. Even this belongs to the owners of the land to which it has been joined. Yet the original owner may, within a given time, reclaim it. This period of time is fixed by law. It is generally one year.

Such a notable accession might take place by the sudden overflow of a river. Again, rivers and streams sometimes change their course. Thus the boundaries of land may be changed. The civil law decides these cases.

Industrial accession takes place by human effort. A man makes a coat from another man's cloth. A man makes a table with another man's lumber. A sculptor makes a statue

from another man's marble. In each case there is industrial accession.

It is sometimes difficult to determine the ownership of things, the form of which has been changed. Ordinarily, the person that gave them their new forms is considered the owner. However, it is not so if he has used another's material in bad faith. In any case, he must pay for the material.

The material may be much more valuable than the work that was expended upon it. Then the thing belongs to the owner of the material. We must, however, pay a reasonable price for the work.

One thing may be joined to another. This is also a form of industrial accession. An artist paints a picture on another man's canvas. One man builds a house on another man's ground.

Undoubtedly, the picture here belongs to the artist. However, he is bound to pay for the canvas.

The house built on another's land forms a different case. Here a principle is laid down. Buildings belong to the owner of the land on which they are erected. The civil law determines the other requirements of justice.

The law lays down certain principles for this case. A man builds a house on land. He knows it belongs to another. Here the house becomes the property of the landowner. The other party can not even reclaim his material if the house be torn down.

Again, a man builds on another man's land. He is in good faith. He thinks he owns the land. He is in possession of the house which he has built. Then if the owner of the land wishes to make the house his own he must pay for the material and the labor of construction.

One man may set out a plant or a tree on another's land. When the plant or tree has taken root it belongs

to the owner of the soil. Before it takes root it belongs to the original owner.

Again, a man transplants another's tree to his own land. After it takes root the owner can not reclaim it. Yet he may demand pay for the tree.

Accession is made by labor. Any human effort expended for useful purposes is called labor. It may be either material or spiritual. It may produce useful things by direct or indirect means.

Labor is one of the legitimate modes of acquiring ownership. Man is master of his physical and his intellectual actions. He may use these actions in his own name. Or he may use them in the service of another.

If a man labors in his own name the product of his labor belongs to him. If he labors in the service of another he has a right to a just and proper wage for his labor.

A man may expend his labor upon his own property. Then the whole product of this labor belongs to him.

Again, he may expend his labor on another's property. He is not hired to labor. He is working in his own name. Here he acquires a partial title to the product of his labor. Such is the case of those who farm land on shares.

The law determines the disposition of property that has been improved by another than the owner. The principles of justice must decide the ownership of both parties.

A man sometimes possesses property to which he has no true title. He is in good faith. He thinks that the property belongs to him. After the lapse of a fixed time the law gives him a title to the property. This is called prescription.

The law determines the time required for prescription. This fixed time ranges from three to thirty years.

Certain property is not subject to prescription for even a much longer period of time.

The obligation of paying a debt may be taken away by prescription. Yet here also good faith is required. The debtor must think that he does not owe the debt. After the required time has passed he is then free from his obligation to pay it.

Prescription may also confer other rights. For the required number of years a person uses a road. He is in good faith. He then acquires a right to use the road.

There can be no prescription without good faith. A man thinks, in the beginning, that certain property belongs to him. He is in possession of the property. Now he learns that the property belongs to another. Here he is bound to restore the property to the rightful owner.

The law sometimes grants the right

of prescription to a person who is in bad faith. The court decides in his favor. It grants him the property. Yet in conscience he can not accept the property. The prescription is not valid.

Again, a person possesses property for the required term of years. The time of prescription may have elapsed. Then he learns that the property belongs to another. He has been in good faith for the time required by law. Hence, he may retain the property. The law decides that the property belongs to him.

A son may have received property from his father. The property belongs to another. Yet the father was in good faith. The son profits by the good faith of his father. The time for prescription is reckoned from the time in which the father took possession of the property.

There is another case. A man re-

ceives property from a person who has held it in bad faith. Here the law must decide the right of prescription.

Only a person who possesses a thing can acquire a true title to it by prescription. There can be no prescription without possession.

A person who possesses the property must have a supposed title to it. Otherwise he has no right of prescription. For without some title he could not be in good faith.

CHAPTER IX

Injustice

INJUSTICE is the violation of another's strict right. Violation may take place by an action. It may also take place by the omission of an action which justice requires. Theft, detraction and homicide are acts of injustice.

Injustice may be positive or it may be negative. It is positive when it is committed by an action. It is negative when it takes place by an omission.

To steal is an act of positive injustice. To fail to pay a debt is an act of negative injustice.

Injustice may be shown by words or by deeds. It may cause loss or it may not cause loss.

Injustice can be of itself a grave sin. It is opposed to the virtue of justice.

Yet in a slight matter it is not a mortal sin.

The Apostle urges the wickedness of injustice: "Nor thieves . . . nor extortioners, shall possess the kingdom of heaven."[1]

The gravity of injustice is determined by the damage done. This may be damage done to the person against whom the injustice was committed. It may also be the damage done to society.

Human society rests upon the principles of justice. When injustice is done to an individual the state suffers. It is a blow at the peace and security of the community at large.

There are diverse kinds of injustice. It may be an injury done to a person's spiritual good. It may be an injury to his life or members. It may be an injury to his honor or his good name. It may be damage done his material goods.

[1] 1 Epistle to the Corinthians vi, 9, 10.

Injustice in material things may be committed by theft or by causing damage. Yet in both cases the sin is of the same kind. It is a sin against justice.

There is an axiom that is well known. "No injury is done to him who knows and consents to it." A man may surrender his rights.

A man has a right to his money. Yet he may cede this right. He may permit another to take his money. Then no injustice is done him.

There are other rights which can not be given up. A man has a right to life. But he can not, ordinarily, cede this right. He can not give another permission to kill him. A man must not ask another to kill him. To kill him would be murder. It would be a grave sin of injustice.

There are many rights that can not be surrendered. A man can not surrender his marital rights to another

person. A minor can not surrender his right to property. A cleric can not surrender certain canonical privileges.

A person who gives money to a robber under threat of death suffers injustice. A person who pays an exorbitant price for wares suffers injustice. A laborer who is forced to work for a very small wage suffers injustice. In all these cases the person knows what is being done. Yet he does not freely consent to it.

Injustice disturbs the order and peace that should exist amongst men. It is contrary to all law both human and divine.

"Do not any unjust thing in judgment, in rule, in weight, or in measure. Let the balance be just, and the weights equal, the bushel just, and the sextary equal. I am the Lord your God, that brought you out of the land of Egypt."[2]

[2] Leviticus xix, 35, 36.

CHAPTER X

Theft and Robbery

TO STEAL secretly is theft. To steal openly with threats or violence is robbery.

Theft means to take away something against the owner's will. It must be reasonably supposed that the owner is unwilling to part with his property. Otherwise, there would be no theft.

He who unjustly and secretly takes a thing to keep it or profit by it commits a theft. To take a thing to destroy it is not theft. Yet it is a sin of injustice.

Theft can be a grave sin. Yet in slight matters it is not a mortal sin. Theft is a sin against commutative justice.

The gravity of theft depends upon

the injury done. It is not measured merely by the intrinsic value of the thing stolen. The loss which the owner suffers should also be considered. Then, too, the reluctance of the owner to part with his property helps to determine the gravity of theft.

A person steals something of little value. Yet it is very precious to the owner. He is very sad to lose it. Thus the theft might be a grave sin against charity.

The matter of grave theft is determined both relatively and absolutely. Relatively it is measured by the condition of the owner. A thing might be a grave matter to some which to others might be a slight matter.

A dollar would be a slight matter to a millionaire. But to a poor widow it might be a matter of life and death. To steal the dollar from the widow would in this case certainly constitute a mortal sin.

Certain things are absolutely grave matters by their own value. The person from whom they are stolen may not suffer grave inconvenience. The loss may be slight for him. Yet in the common estimation of men it would be considered a serious matter. Hence, a theft of this kind is a grave injustice to society. It is a mortal sin.

Theft is a sin. It is also an act of dishonor. To be known as a thief is a disgrace amongst men. Hence, all true Christians shrink from the very idea of theft.

Servants are often exposed to temptation. Things are left within reach. They should cultivate a high sense of honesty. They should carefully guard everything that belongs to the household in which they are employed.

Children, too, must respect the property of their parents. They should never take things against the will of

their parents. They must ask for what they want. They may take only what is allowed them.

It is a sin to steal even from rich companies. If the matter is grave it constitutes a mortal sin.

Small thefts may unite to form a grave sin. This may take place when a person has the intention of committing several thefts, the total of which he foresees will constitute a grave matter.

Sometimes several conspire to steal a serious amount. Each steals but a little. Yet all together they commit a grave theft. Here each commits a mortal sin. For each willed the whole theft.

Holy Writ bitterly condemns theft. "This is the curse that goeth forth over the face of the earth; for every thief shall be judged as is there written. . . . I will bring it forth, saith the

Lord of hosts; and it shall come to the house of the thief. . . . and it shall remain in the midst of his house, and shall consume it, with the timber thereof, and the stones thereof."[1]

[1] Zacharias v, 3, 4.

CHAPTER XI

Necessity and Occult Compensation

IN EXTREME necessity a person may take from another's goods sufficient to save his life. In extreme necessity all things become common property. The right to life is higher than the right to private property.

Everyone is bound to preserve his life. A person may be starving. Food that belongs to another is at hand. Here he may take enough to save his life. It matters not if the owner be unwilling to give it. He is even obliged to save his life in this manner.

Extreme necessity sometimes arises from human malice. A person may be in the hands of bandits. He is threatened with death. Perhaps he has

money that belongs to others. The bandits command him to hand over the money. He may do so to save his life.

Highway robberies sometimes take place. Robbers enter a bank. They aim deadly weapons at the cashier. They demand the money that is in the bank. The money belongs to others. Yet the cashier may hand it over. He is in extreme necessity. He is saving his life.

Thus a person perhaps takes thousands of dollars that belong to others. Yet it matters not. In extreme necessity the right to life is first.

Sometimes the use of a thing suffices to relieve extreme necessity. Afterwards the thing must be returned to the owner. A man is pursued by bandits. He takes another man's horse. He flees to safety. Later he is bound to restore the horse.

It is also permitted to take something

necessary to save our neighbor's life. What is permitted for ourselves is permitted for our neighbor. We may do for him in charity whatever we may do for ourselves.

It is not permitted to take anything from another that is necessary for him. Two men may be shipwrecked. Both may be struggling in the sea. One has a plank. The other is not permitted to take this plank. It is necessary to save the other man's life.

In grave necessity it is not permitted to carry away another's goods. This would prove a great injury to society. Men are often found in grave necessity. They would gladly relieve their necessity by taking from others. Yet this would be a dangerous practice. It would lead to many evils. It would be theft. It would injure the rights of men.

The poor are often in great need. Yet they should ask for relief. They

should preserve their honor and their honesty even in the greatest need. They will always find good men who are willing to help them.

Those who possess material goods are bound in charity to help their neighbors in their necessity.

There is another case in which a person may lawfully take what another possesses. One person owes something to another. It is a just debt. The debtor refuses to pay it. Here the creditor may secretly take what belongs to him. This is called occult compensation.

Occult compensation is illicit except under certain conditions. Ordinarily, the law furnishes ample means for the collection of unpaid debts. Hence, recourse must be had to the law.

Occult compensation does not mean that a person takes what really belongs to another. In fact, he takes merely what belongs to himself. But ordi-

narily there are other means of acquiring his property. Then he is not permitted to make occult compensation.

Occult compensation is rarely licit. Four conditions must always be present to make it lawful The debt must be a true debt. It must be certain. It must be such that morally it can not be collected by any other means. Then there must be a certainty that the debtor or others will suffer no injustice by the occult compensation.

Occult compensation can be made only for a true debt. It must be a debt of strict justice. Furthermore, there must be no doubt about the debt. It must be a debt that can not be reasonably contested.

Occult compensation can only be made in kind. A spiritual debt can not be paid by material things. For instance, one person has injured another's good name. The injured person

can not compensate his loss by taking material things.

Occult compensation is unlawful except as a last resort. A creditor must first try all ordinary means. He must ask for payment. He should, if necessary, take the matter to court.

Occult compensation often causes injustice to a debtor. He does not know that the debt is paid. He still feels bound in conscience to pay it. Besides, it may bring suspicion upon others. The owner may know that something has been taken. He may suspect others of theft. All this must be considered in making occult compensation.

It is best studiously to avoid occult compensation. It is better to suffer material loss than to risk honor and good name. It is better to remit the payment of a debt than to risk the dangers of injustice.

CHAPTER XII

Unjust Damage

UNJUST damage may be caused in a twofold manner. A person's property may be destroyed by an action or an omission. He may be hindered from acquiring something which he has a right to gain.

To do unjust damage is a sin against justice. It may be mortal or venial. The gravity is measured by the loss that has been caused.

To hinder another from the possession of goods is a sin against justice. A man may hinder another from using what belongs to him. He may hinder another from acquiring something. In both cases he sins against justice.

A man may hinder another directly or indirectly. He may use just or

unjust means. Yet he hinders a man from something to which he has a right. Hence, his action is a sin against justice.

Sometimes a person is in position to acquire something. Another uses unjust means to hinder him from acquiring it. This is a sin against justice. The guilty party is bound to restitution.

For example, a poor person frequently receives help from a rich neighbor. Another calumniates the poor person to the rich man. For this reason he no longer receives help. The calumniator is guilty of injustice. He is bound to restitution.

Again, two persons are business competitors. One detracts or calumniates the other. He causes him to lose trade. He is guilty of injustice. He must repair all the foreseen loss he has caused.

In these cases the injured party has no strict right to the thing. Yet he

has a right not to be hindered by unjust means.

Fraud, falsehood, accusations are unjust means. It is always a sin of injustice to use them against others. Then flattery and pleading may be the cause of injustice to a man. His friends or customers are perhaps won from him by these means.

A person is sometimes hindered from acquiring something to which he has no right. Only just means are used to hinder him. This does not constitute a sin against justice.

A man intends to leave his property to a friend. Another persuades him to leave it to a different person. There is no injustice here. The friend had no right to the property.

Again, a person seeks a position of which he is unworthy. He may be licitly hindered from obtaining the position. Yet only lawful means must be used to hinder him. To hinder

him by unjust means would be a sin of injustice. Here the injustice would not consist in hindering him. It would consist in the unjust means used.

Injustice might be done to a third party. For example, one man is about to save his neighbor's property. Another hinders him. This is a sin of injustice. It imposes an obligation of restitution.

For example, a house is afire. It belongs to Paul. Peter rushes with water to extinguish the fire that has just started. He can well do so. Yet John hinders him. The house is destroyed. Here John has committed a sin of injustice. He is bound to make restitution to Paul.

The law of justice is strict and exact in every detail. It covers every case of rights. It guards every human right. It is intended to establish perfect harmony amongst all men.

Of old it was asked: "Am I my

brother's keeper?"[1] The law of justice is the answer. We must respect our neighbor's rights in all things. We can not ignore him. We must recognize him as our fellowman.

God created the earth for the whole human race. We all share the things of God. We are social beings. We inhabit the earth together. Justice is the bond of our union.

[1] Genesis iv, 9.

CHAPTER XIII

Restitution

TO REPAIR damage done to another is called restitution. Everyone has a right to possess his property. Yet it may be unjustly taken away from him. Then it must be restored to him. This action is called restitution.

To pay an honest debt is not restitution. To make restitution means to repair damage done to another. It is compensation for loss that has been inflicted upon another.

Restitution differs from satisfaction. Restitution is compensation for material injury. Satisfaction is compensation for personal injury. For example, a person is offended. To beg his pardon may constitute satisfaction for the injury.

In grave matters restitution is necessary for salvation. We must, at least, have a serious intention to repair all injury we may have caused. Otherwise, we can not be saved. It is commanded both by natural and divine precept.

The precept of restitution is contained in the natural precept of justice. It is given in the Gospel: "As you would that men should do to you, do you also to them in like manner."[1]

If we have suffered injury we desire reparation. Hence, we are bound to repair injury done to others. If our property has been unjustly taken away we desire restitution. Hence, we should restore to others what rightly belongs to them. This is the natural precept of restitution.

God makes restitution a condition for pardon. He will not forgive our sins until we have done justice to our

[1] St. Luke vi, 31.

neighbor. "Yea, if I shall say to the just that he shall surely live, and he, trusting in his justice, commit iniquity, all his justices shall be forgotten, and in his iniquity, which he hath committed, in the same shall he die.

"And if I shall say to the wicked: Thou shalt surely die: and he do penance for his sin, and do judgment and justice,

"And if that wicked man restore the pledge, and render what he had robbed, and walk in the commandments of life, and do no unjust thing: he shall surely live, and shall not die."[2]

It is impossible to be sorry for a sin of injustice without at least a sincere desire to make restitution. There can be no sincere repentance for injustice without a sincere desire to repair the injury done.

"If a person will not restore what

[2] Ezechiel xxxiii, 13-15.

he has unjustly taken, when he can restore it, he has no repentance for his sin. He is but feigning repentance. If he truthfully repents, he must restore what he has unjustly taken. But, as I have said, he must be able to restore it."[3]

Of itself the obligation to make restitution can be grave. However, when slight damage only has been done there is only a slight obligation to make restitution.

Restitution must be made as soon as possible. To defer restitution often causes greater loss to the owner. It is then another act of injustice.

Reparation of injury need only be made in goods of the same order. No one is bound to repair spiritual losses with material things. If one person has injured another's good name he is not bound to repay him with money.

[3] St. Augustine, Epistola CLIII ad Macedonium, Vol. II, col. 403, Antwerp, 1700.

However, the civil law may impose material reparation for personal injury. Then there is an obligation to pay it. This is called damages for libel.

Complete reparation must be made. All that has been unjustly taken away must be restored. The profits and fruits of the unjust possession must also be returned to the owner.

A person may be unable to make full restitution. Then he is bound to repair as much of the damage as possible. Later he may be able to make complete reparation.

He who unjustly possesses another's property must restore it. He must return it whole and complete. He must return all the profits he has derived from his unjust possession.

He who unjustly causes material loss to another must repair the damage. Perhaps he has not derived profit from the injury he has done. Yet he

must make full reparation for his neighbor's loss.

Those who cooperate in injustice must also make restitution. They are bound to repair the unjust damage done in so far as they took part in it.

Restitution restores the order of justice that has been disturbed. It sets right a violation of commutative justice.

CHAPTER XIV

Reparation for Unjust Damage

THREE conditions must be present to make restitution necessary. The damage must be caused by an action that is truly unjust. The action must have really caused the damage. Then the unjust action must have been wilful and deliberate.

An action that deprives another of goods that rightfully belong to him is unjust. The obligation of restitution arises from the wilfully unjust action. Hence, when damage is wilfully done by an unjust action there is an obligation to make restitution.

A person causes damage to another. He may not offend commutative justice. Perhaps he sins against some other virtue. Then he is not bound to make restitution.

For example, a rich man decides to make a donation to a hospital. A friend persuades him not to do so. His action may have been uncharitable. Yet it was not unjust. Hence, he is not bound to restitution.

A man may do something innocently. It threatens to cause damage to another. He is able to counteract his action. But he fails to do so. He permits the damage to follow. Here he is guilty of injustice. He is bound to repair the loss.

A case may be cited. A man inadvertently throws a lighted match into a pile of paper. He is in another's house. He sees that the paper is beginning to burn. He knows that the house will be burned. Yet he does not extinguish the fire that is starting. Here he is guilty of injustice. He is bound to make restitution for the ruined house.

A druggist might give poison by

mistake. He should try to correct his error. Otherwise, he is bound to repair the damage that will follow.

A person may harmlessly give another false counsel. But he may later discover his mistake. Then he is bound to correct it if he can do so without great inconvenience. Otherwise, he is bound to repair the damage caused.

A man may innocently perform an action. Then he sees that it will cause great damage. Yet he can not hinder it. Or perhaps to do so would cause him serious loss. Then he is not bound to restitution.

A brakeman might blamelessly forget to close a switch. He sees a train approaching. He can not reach the switch. He can not stop the train. He is not bound to repair the damage done by the wreck.

Again, a person has erroneously accused another of a grave crime. He

is not bound to recant if he can not do so without great detriment to himself.

Only an unjust action that causes unjust damage entails obligation of restitution. An action may be the occasion of damage. It may have made the condition requisite for damage. Yet it must really cause the damage before it can bring about an obligation to make reparation.

For instance, a person commits theft. Later he repents and makes restitution. But now another commits a similar theft on the same person. Then the former is blamed and punished. Here the second person did not cause the injustice done to the other. His theft was merely the occasion of the other's punishment.

Again, one man gives another a gun. He kills a man with it. The other knew nothing of his intention to use the gun for an evil purpose. Here the action of giving the gun was the con-

dition for the murder. It was not the cause of the crime.

An action may accidently cause damage. The damage could not be foreseen. Such an action does not bring about the obligation of restitution.

A man builds a fire in a field. He sees no danger of damage. There is nothing near. But a strong wind suddenly arises. It blows sparks to a distant haystack. The hay is burned. Here the man who built the fire is not bound to make restitution.

There are persons who give bad example. They lead others to sin. Perhaps they lead them to commit theft. They indeed commit a grave sin. Yet they do not incur the obligation to make restitution. For this action was merely the occasion of the other's sin. It was not the cause.

It is different if one person really persuades another to commit sin. If

it is a sin of injustice he is then bound to restitution.

One person may be suspected of another's crime. Here the criminal is not bound to make reparation for the injury done the suspected person. His action was not the cause of the injury. It was merely the occasion of it.

But perhaps a criminal uses means to throw suspicion upon another. He may use the other's revolver. He commits murder with it. Then he puts it back with one chamber empty. Here he is bound to make reparation for the injury that may befall the suspected person.

Again, a thief secretly puts a part of his stolen goods in another's room. He does this to throw suspicion upon him. This person is accused of the crime. He is punished and perhaps disgraced. The thief is then bound to make restitution to him. His action

really caused the injury that befell the innocent party.

A man might omit something required by positive law. This he may do without sin. He may have done so inadvertently. Then he is guilty of a mere juridical fault.

Of itself, a mere juridical fault does not involve the obligation of restitution. Yet the guilty party may be condemned in court. He may be sentenced to pay damages. Then he is bound to make restitution.

A person receives stolen goods in good faith. He has consumed them. Then he learns that the goods had been stolen. He is not bound to make restitution unless he has been made richer by the goods.

A doctor may blamelessly make a mistake. Yet he is not bound to make reparation for the injury done. For his action was not wilfully wrong. He acted in good faith.

Grave damage may be done by an action that is a grave sin. Then there is a grave obligation to make restitution.

Yet a slight fault may sometimes cause grave damage. The grave damage was not foreseen. Here there is perhaps no grave obligation to make restitution. For a grave obligation does not ordinarily arise from a slight fault.

However, no one is permitted to profit by injustice. A person may have acquired something by a slight fault. It may amount to a serious matter. He has it in his possession. Or he has been enriched by it. Here he is under grave obligation to restore it.

Slight damage may be caused by a slight fault. Then slight damage may be caused by a grave fault. In both cases there is but a slight obligation to make restitution.

CHAPTER XV

Reparation for Unjust Possession

A PERSON may possess another's property in a threefold manner. He may be in good faith. He may be in bad faith. Or he may be in doubtful faith.

A possessor in good faith is one who does not know that the thing belongs to another. He is invincibly ignorant of the fact that he possesses what belongs to another.

In general, a possessor in good faith is bound to restore what remains of his neighbor's property. Ordinarily, he is not bound to repair the other losses which the rightful owner may have suffered. For he did not wilfully cause these losses.

A man may possess another's prop-

erty in good faith. He learns who the rightful owner is. Then he bound to restore the property to the rightful owner. However, he may have meanwhile acquired the property by prescription. Here he is not bound to restore it.

He may possess only a part of the original property. Here he is bound to restore only the part that remains. The property may have deteriorated even through his fault. Yet the property is to be restored in its present state.

The possessor in good faith may have reduced the value of the property for his own gain. Here he is bound to restore the property and the profits thereof which he still possesses.

The property may have increased in value. Yet he is bound to restore it as it is. He may, however, deduct expenses for increasing the value of the property.

Sometimes a possessor in good faith wilfully defers restitution. He is then bound to repair losses that ensued after he learned the true owner.

A possessor in good faith may be unable to learn who the rightful owner is. He is then permitted to retain the property for himself.

A possessor in good faith is not always bound to restore property to the owner himself. He may sometimes restore it to the person from whom he received it.

If he has received the property as a gift from a third party he is bound to restore it to the rightful owner. He would not be permitted to return it to a thief or other unjust possessor.

But perhaps he has bought the property from a third party. If the owner claims his property, the possessor must give it to him. Then he has recourse against the seller for the price he paid.

But perhaps the owner does not claim his property. Then the possessor may return it to the party from whom he bought it. He is thus enabled perhaps to recover the price which he paid for it.

For example, a man has bought a stolen horse from a thief. The owner comes for his horse. The possessor must return it to him. He may demand the price from the thief. In another case the buyer learns that the horse was stolen. But the owner has not come to claim it. Here he may take the horse back to the thief and demand his money.

Civil law sometimes makes different rules for the recovery of property. These are made for the common good of society. They bind in conscience.

Perhaps the possessor in good faith no longer has another's property. It may have perished. It may have been stolen from him. Or he may have sold

it. Then he is bound to restore only such profits as he may possess therefrom.

For example, a man has bought a stolen watch. He has presented it to a friend. He did not know that the watch was stolen property. Here he is not bound to make restitution to the rightful owner. For he has not been made richer by the transaction.

But perhaps he has received the stolen watch as a gift. He presented it to a friend. He had intended to buy a watch for him. Thus he had profited by the stolen property. Hence, he is bound to restore the amount by which he profited.

A person may have bought something in good faith. Later he sells it. Then the rightful owner reclaims his goods. Or the buyer freely returns them. Here the seller is bound to restore the price to the buyer.

He has perhaps not profited by the

sale. He receives no more than he had paid for the goods. Yet the buyer must be protected in his rights. The seller has recourse against the person who sold the goods to him.

The possessor in good faith is bound to restore the fruits of another's property. These are the products of the thing itself. He is not bound to restore those things which the thing has produced by his labor. For instance, he may have killed a deer with another's gun. He is not bound to give the deer to the owner of the gun.

A man in good faith has perhaps invested another's money. He has made large profits on it. These profits are due to his own effort. He is not bound to give them to the owner of the money.

A man may have innocently come into possession of wheat which belonged to another. He sold the wheat at an advanced price. Now the price

is low. He may satisfy his obligation by restoring the amount of wheat that belongs to the owner. He need not give him the profits he has made.

The possessor in good faith may deduct necessary and useful expenses. For example, one man has been in possession of another's house. He may deduct the ordinary expenses of keeping the property in order. Such are repairs, useful improvements, and the like. Ordinarily, he may not deduct expenses for luxuries that do not benefit or improve the property.

The possessor in good faith is entitled to a just remuneration for the labor he has expended upon another's property. For the owner of the property profits by his labor.

CHAPTER XVI

The Possessor in Bad Faith

HE WHO knowingly and unjustly retains another's property is a possessor in bad faith. He is bound to restore the thing itself. He is bound to restore its fruits. He is bound to pay the expenses incurred thereon. He is bound to pay for damage done. He is also bound to pay for lost profits.

The possessor in bad faith is bound to repair all the loss that the owner has suffered. He must make full reparation to him. He must return the thing that he has unjustly taken. At least, he must give something equivalent. This he must do as soon as possible.

Perhaps the unjust possessor no

longer has the property. He may have consumed it. He may have sold it or given it away. Then he is bound to pay the owner for the property.

It is not permitted to keep another's property that has been saved even from certain destruction. For example, a man snatches a valuable clock from a burning house. It would otherwise have been destroyed. Yet it must be returned to the rightful owner. It is still his property.

Again, one man finds another man's horse in a pit. He liberates the animal. It would certainly have perished. Yet he may not retain it. He must restore it to the rightful owner. However, he may demand pay for his work of saving the horse.

The unjust possessor must repair any injury that he has caused to the property. He must also restore the fruits of his unjust possession.

He must restore all the natural

fruits of the thing which he has unjustly taken. He must also return all profits that lawfully belong to the thing. However, he may have speculated with stolen money. He may have made large profits. These he is not bound to give to the owner of the money.

The unjust possessor generally causes other losses to the owner of the property. Ordinarily, at least vaguely, he foresees that such losses will follow. Hence, he is bound to repair them.

For example, a thief steals a farmer's plow. He knows the farmer can not obtain another. Thus a field remains unplowed. The thief is bound to repay the loss of the unplanted field.

Again, a thief steals another's money. The owner would have received interest on the money. The theft causes him to lose this. Here the thief is bound to repay the lost interest together with the stolen money.

A man may have grave doubts about something that he possesses. He may have reasons for thinking that it belongs to another. Then he is a possessor in doubtful faith.

He may have acquired the thing in good faith. Later he doubts his own right to retain it. Then he is bound to investigate. He must seek to learn who is the rightful owner.

Meanwhile he should take care of the property. But his doubt may still remain after he has made a thorough investigation. Then he may retain the property.

He then becomes a possessor in good faith. Should the owner later appear and demand his property, he must restore it.

Sometimes a possessor in doubtful faith wilfully neglects to investigate. He does not try to find the true owner. Then he begins to be in bad faith.

A possessor in doubtful faith some-

times from carelessness neglects to investigate. He may not know the obligation to do so. Such neglect will scarcely put him in bad faith.

There is also another kind of doubt. It is antecedent doubt. One man takes something from another. At the time he doubts whether he has a right to take it. If he can not settle his doubt he is bound to restore the thing to the other.

A man may knowingly buy something from one that is in doubtful faith. He must then investigate. If he finds the owner he must make restitution to him. Otherwise he must give a goodly portion of the value to charity.

CHAPTER XVII

Restitution for Damage

HE WHO unjustly injures another's property is bound to repair the whole damage done. He must pay for the thing destroyed. He must make restitution for any other foreseen damages. He must repair all the loss that he causes.

One man sometimes hinders another from acquiring goods to which he has a right. The other person may have been certain of acquiring the thing. Then the offender is bound to repay his loss.

No one is bound to repair loss that he has involuntarily caused. Yet a person may have vaguely foreseen the loss. Then he is bound to repair only the part of the loss that was wilful.

A man may doubt whether his action was the cause of damage. He investigates. Still he doubts. Then he is not bound to make restitution. For he can not be bound by an uncertain obligation.

Many may have acted together. They all knew that some of them would cause the damage. They also knew that they would be unable to decide who caused it. Hence, all are bound singly and conjointly to make restitution.

Several hunters shoot at a farmer's calf. One strikes and kills it. They do not know who fired the fatal shot. But they all conspired in the killing. They are bound singly and conjointly to repair the damage.

Everyone is bound to pay his debts. Yet a man may positively doubt whether he has paid a debt. There is the same probability on one side as on the other. Here the creditor may de-

mand payment. He may even have recourse to the law to collect payment for the debt. The debtor may abide by the decision of the court.

Unjust homicide entails the obligation to make reparation for all the damages that follow. The same is true of unjust mutilation and wounds.

The murderer is bound to make restitution to those who actually depended upon this victim for support. Such are wives, children, parents, brothers and sisters. He must in some manner try to repair the material loss they have sustained.

Others may have suffered material loss by the death of the murdered man. Such are beggars, friends, creditors and others. In general, the murderer is not bound to make restitution to any of these.

He who does personal violence to another is bound to repair the material losses that follow. Yet he is not bound

to pay money in reparation for pains and sufferings unless condemned by law to do so.

He who has by force ruined a girl is bound to make reparation. He is bound to repair the material damages that follow. If possible, he may do so by marriage. However, the injured person is not bound to accept her seducer as a husband.

Should he have seduced the party with the promise of marriage, he is bound to marry her. However, there may be grave reasons why a marriage should not take place. It may be foreseen that it will be an unhappy union.

The loss of virtue can not be repaid by material things. Hence, he is not bound to make reparation for the spiritual loss his victim has sustained.

There may be spurious offspring. The seducer is bound to pay all lying-in expenses. He is bound to

support the child. He must provide for its material well-being and its education. Should he fail to do so, he may be compelled by law.

Sometimes a father is bound to marry the mother of a spurious child. Thus the child may be legitimatized. Yet this is an obligation of charity and piety rather than of justice.

An adulterous child presents greater difficulties. Both parties may be equally guilty of the sin. Then both are bound to make restitution to the husband for the expense of raising the child. Otherwise, only the guilty party incurs this obligation.

CHAPTER XVIII

Restitution for Unjust Cooperation

ONE person may take part in another's injustice. Then he is said to cooperate with him. He becomes, in some measure, guilty of the injustice done. He is bound to restitution.

Cooperation may be negative or positive. Negative cooperation consists in the omission of an action demanded by justice. Positive cooperation consists in the action of joining another in causing unjust damage. Both may be either physical or moral.

Unjust cooperation entails the obligation of restitution. It matters not whether it be positive or negative. For it is at least the partial cause of unjust damage.

Certain conditions must be present

to entail the obligation of restitution for unjust cooperation. The cooperation must be truly unjust. It must be really a cause of damage. Then it must be wilful and voluntary.

A man might justly because of fear or terror admit a murderer to a house. His action enables the murderer to find his victim. He has indeed cooperated in the murder. But his cooperation was neither voluntary nor unjust. Hence, he is not bound to restitution.

Restitution must be made for unjust cooperation. The amount of reparation that is to be made is determined by the part the cooperator took in causing the damage. If he concurred in causing the whole damage he is bound with the other party to repay all the loss. Otherwise, he is bound to repair only that part of the damage which he has been instrumental in causing.

There are nine ways of cooperating in injury done by others. They are by command, by counsel, by consent, by flattery, by offering refuge, by participation, by silence, by not resisting and by not revealing the offender's intentions.

Sometimes one person commands another to commit an injustice for him. For instance, a wicked parent commands a child to steal. This is cooperation by command. The parent is bound to repair the injury done.

Again, one man hires another to commit a crime for him. This is also unjust cooperation. It entails the obligation of restitution for all the damage done. The man who hired the criminal is the first cause of the crime.

The command to do another injury need not be made by one who has authority. It suffices if it influences a person to inflict injury upon another.

Yet a command must really influence the unjust action. Otherwise, it does not entail the obligation of restitution. To express approval of an injustice done does not impose the obligation of restitution.

However, approval of an unjust action before it is committed may be equivalent to a command to do it. Such approval may be sufficient to make the offender act. Then it involves the obligation of restitution.

One man may intend to commit an injustice in favor of a friend. He tells his friend about it. His friend approves the action. Or perhaps he remains silent when he could have easily deterred him. Then he is ordinarily bound to make restitution for the injury done.

For example, a man has defamed a candidate for office. A friend tells the candidate that he is going to shoot the defamer. The candidate approves

or remains silent. He could have deterred his erring friend from the wicked deed. By his approval or silence he incurs the obligation of making reparation for the injury done.

One person may request another to commit an injustice for him. He may merely signify a wish to have it done. But it is enough to induce the other to inflict the injury. Thus he cooperates in the injustice. He incurs the obligation of repairing the damage done.

A person may recall his command to another. He asks him not to commit the crime. Nevertheless, the criminal commits the crime. Here the person who first commanded him is freed from the obligation of restitution.

However, a man may attempt to recall his command. Yet he is unable to make his will known to the criminal. The crime is committed. Here he is bound to restitution.

Other obligations fall upon the person who induces another to commit injustice. He is often the unjust cause of injury to the criminal. This injury he must repair.

Cooperation may take place by counsel. One man induces another to inflict an injury upon his neighbor. He influences the other's will. Yet the criminal does the evil in his own name.

He who has given evil counsel is bound to retract it. It matters not whether he gave it in good faith or in bad faith.

A person who has counseled another to commit an injustice must try to dissuade him from the crime. If he can not deter him he is bound to warn the intended victim.

He who counsels another to injure another is bound to repair all the injury caused by his advice. He may have induced the criminal to act. His

advice may have been the moral cause of the injury. Then he is bound to repair the damage done.

Mere consent to another's unjust action may constitute unjust cooperation. This consent may be expressed approbation. It may be a vote. It may be an unjust sentence passed in court.

A juryman might concur in an unjust sentence. He would then be guilty of injustice.

A legislator might support an unjust law. He would thus cooperate in injustice. Likewise, a citizen might practice injustice by his vote. He might vote for unjust measures.

A man is bound to repair injury done by his vote. Yet this is perhaps only true of a decisive vote. It may be known at the time of voting that the unjust measure is decided. Then the vote cast has no part in deciding the issue.

One person sometimes flatters another. Thus he induces him to commit injustice. This is cooperation by flattery.

One person bestows vain praises upon another. Perhaps he tells him that he is brave enough to enter a building and steal. He thus knowingly induces him to commit the crime of theft. He intends to induce him to commit the crime. Thus the flatterer is bound to restitution.

Cooperation sometimes takes place by giving protection to the criminal. A person offers a thief security. He receives him and conceals him. Or perhaps he hides his stolen goods for him. Thus he cooperates in his crime of theft.

Such cooperation may be the cause of the crime. They have made a compact. The thief steals only because he is to receive protection from the other person. Here the person who

protects the thief or conceals the stolen goods is bound to restitution. For his action was a cause of the injustice done.

Cooperation takes place by participation. Perhaps a person participates in the fruits of injustice. For instance, he receives a portion of the stolen goods. Again, he participates in the unjust action. He may actually help the criminal.

A person who receives stolen goods becomes an unjust possessor. He is bound to restore the goods to the rightful owner.

Sometimes a person actually takes part in an unjust action. Then he is bound to repair the injury done. He knowingly takes part in another's crime. He thus shares the guilt of the criminal. But perhaps he is acting in good faith. He may not know that the other is committing an injustice. Then he is not bound to restitution.

Sometimes a person is bound to protect his neighbor from injustice. This is always an obligation of charity when it can be readily done. But it may also be an obligation of justice. Then if he fails to hinder the injustice he is guilty of unjust cooperation.

A person may be bound by office or by contract to protect another's property. Then if he neglects to do so, he is guilty of unjust cooperation.

This cooperation may take place by silence. For instance, a man is hired as a clerk in a store. He sees a thief carrying off goods. If he gave the alarm, the thief could be caught. But he remains silent. He is thus guilty of unjust cooperation. He is bound to restitution.

A man may be hired to guard merchandise. He stands by whilst a thief carries off goods. Thus he co-operates by not resisting the thief. He is bound to restitution.

Animals sometimes cause damage. Perhaps the owner has wilfully neglected the animals. He has not been careful to keep them within bounds. He is then bound to repair the damages done by them.

A father is not always bound to repair the damage done by his children. For the children are accountable for their own actions. Yet the father is bound to repair the damages if he is condemned by the court to do so.

In another case, a father is bound to repair the damage done by his children. He is silent when he sees them committing an injury to others. His silence is equivalent to approbation. Here he is bound to restitution for the damage done.

When several persons cooperate in an unjust action, each must pay his share of the damages. Each must pay an amount proportioned to the part he took in the unjust action.

Sometimes all are equally guilty of causing the damage. Then all are bound to pay an equal share of the reparation. If one refuses to pay his part, the others are bound to pay all. Then each one is bound to pay all if the others refuse to pay.

One person may be the one principal cause of the damage. The others may have been his hirelings. He is bound to repair all the damage. But he may fail to do so. Then the others are bound to make restitution.

Thus the law of God permits no one to profit by injustice. Full reparation must be made for all injuries. It is the will of God that order and justice should exist amongst all men.

Restitution must always be made. If the rightful owner can not be found, the unjust possession must be given to charity. The law of God demands that men give up their unjust possessions.

CHAPTER XIX

Contracts

A CONTRACT is a transfer of rights from one person to another. The transfer may also be made by several persons to several other persons.

Three things are necessary to make a contract valid. The parties must be capable of making a contract. The matter of the contract must be suitable. Then there must be mutual consent between the two parties.

The essence of a contract consists in the consent of the two parties to transfer some right. Hence, the contract is essentially imperfect until both parties consent to it.

There are unilateral and bilateral contracts. A unilateral contract imposes an obligation on only one party.

Such are promises and donations. A bilateral contract binds both contracting parties. Such are contracts of sale, rent, and loans, and the like.

Contracts may be solemn or simple. A solemn contract is one made according to the formalities prescribed by law. A simple contract is one made without legal formalities.

According to the law of nature all that have the use of reason are capable of making valid contracts. But the positive law demands more. It concedes the right of making contracts to those alone who have full power to dispose of their material possessions.

Minors and wives can not make binding contracts. Others also are legally declared incapable of making contracts.

A contract made by a minor is not necessarily invalid. Yet it may be broken by the minor. But this must always be done without fraud. The

other party, however, is bound to keep his part of the contract.

For example, a minor makes a contract to buy a horse from a man. He decides that the price is too high. He need not buy the horse. Yet the man is bound to sell him the horse if he wishes to buy it.

Anything that can belong to a person is valid matter for contracts. It may be material possessions. It may be an action or the omission of an action.

A contract can not be made for something that is impossible. For instance, a man could not enter a contract to fly to the moon. This would be physically impossible.

The matter of a contract must also be morally possible. Yet a man may bind himself to do something heroic. He may make a contract to do something that is very difficult.

The matter of a contract may be divisible. Such would be money.

Sometimes it may be impossible to pay all that the contract demands. Then there is an obligation to pay as much as possible.

Contracts can be made for things only that are transferable. No one could make a contract to transfer his personality to another. Nor could he sell the common air to another. There are other things that are declared non-transferable by civil and ecclesiastical law.

Public offices are not transferable. Nor may ecclesiastical benefices be sold. Likewise it is forbidden to sell or buy the Sacraments or other sacred things. No valid contract could be made for any of these things.

Two parties can not make a contract for things that do not belong to them. Yet a man may make a contract to transfer something which he expects to own. At the time it may still belong to another.

For example, a man intends to buy a house. It belongs to another. He makes a contract to sell it to another party after he acquires it. The contract is valid.

No one can make a valid contract to render another what is already due him by justice. A judge can not enter a contract to render a just sentence. A thief can not enter a contract to return stolen goods. Such a contract would be futile. The obligation of justice already exists.

A valid contract can not be made for anything evil or illicit. A contract to commit murder or theft would be void.

Positive law declares such contracts invalid. It does not recognize any obligation arising from a contract to do something illicit. These laws bind in conscience. If the case has been decided by law, the decision is binding.

No contract can be made for a thing

of no value. Nor can a person demand remuneration for something that costs him no effort. For example, a traveler asks a man to point out a road to him. The man tells him to turn to the right. He can not justly demand payment for his trouble. For it costs him but the slightest effort.

The consent of the parties concerned is essential to contracts. There must always be a motive for giving consent to a contract. It may be a wish to confer a favor upon another. It may be a wish to receive something from him in return. Otherwise the consent is not valid.

Perhaps a person gives only ficticious consent to a contract. He deceives the other party. Thus he causes him injury. This he is bound to repair.

A party may make a valid contract. Yet he does not intend to fulfil the contract. Here he assumes a true obligation to fulfil the terms of the

contract. His false intention does not excuse him.

Deceit is never taken for granted in a contract. It must be proved. The party who did not consent must prove that he gave only external consent. Otherwise, the contract is considered valid.

Consent must always be free and deliberate. To consent validly to a contract a man must be in full possession of his mental faculties. He must be capable of acting with reason and ordinary judgment.

An intoxicated person can not give valid consent to a contract. Nor can a person who is mentally deranged. Nor can a person who is half-asleep.

Consent must be mutual between both parties to the contract. Both must agree to the terms of the contract. Otherwise, the contract is invalid.

Even in a unilateral contract both parties must consent. Here one party

gratuitously bestows a right upon another. Yet the contract is not valid until the second party has accepted the right bestowed.

For example, a man promises to marry a woman. If she accepts his offer there is a true contract of promise. If she does not accept his offer there is no valid contract.

Ecclesiastical law lays down definite laws for the binding promise of marriage.

Suits for breach of promise are often entered in civil courts. There may have been a true contract of promise. One party may have broken the contract. The other has suffered injury. Then the injured party may demand just reparation.

The parties to a contract need not give their consent at the same time. One party gives his consent. Then, as long as this consent is not revoked, the other may validly consent. But

the first party may withdraw his consent. Then the consent of the other party is invalid. The civil law decides whether consent once given was justly withdrawn.

Consent to a contract may be given by proxy. One person may authorize another to act for him. If the agent acts within his authority the consent is valid.

Consent to a contract must be expressed by some external sign. It may be expressed in spoken words. Or it may be written.

Silence may signify consent to a favorable contract. This may be true in a promise or a donation. It may readily signify acceptance.

Consent extracted by grave fear or force is invalid. Error as to the nature of the contract makes consent invalid. Consent obtained by fraud and deceit is invalid.

Only substantial error renders a

contract invalid. The person may not understand the terms of the contract. It is entirely different from what he thinks it is. His error is the reason for his making the contract. Then it makes the contract invalid.

A person may be driven by grave fear or violence to make a contract. Then the contract is invalid. The person is not free. He does not give internal consent.

CHAPTER XX

Unilateral Contracts

THERE are two kinds of unilateral contracts. They are promises and donation. Thus one party gratuitously binds himself to give something for another. When the other party signifies his acceptance it is a true contract.

A promise is binding only under certain conditions. The party who promises must intend to bind himself. He must deliberately make the promise. He must manifest his promise by external signs.

A person may always revoke a promise that has not been accepted. A promise may bind in fidelity or in justice. This depends on the intention the person had in making the contract.

He who makes a promise that binds only in fidelity is bound in conscience to fulfil it. Yet he is bound only under pain of venial sin, even if it refers to a serious matter.

However, to break a promise may cause grave injury to others. Then there is a grave obligation to keep it.

A person may intend to bind himself in justice to keep his promise. Then in very grave matters he is bound under pain of mortal sin to keep it. In slight matters he is bound only under pain of venial sin.

There may sometimes be a doubt whether there is a grave or a slight obligation to keep a promise. Then it may be presumed that the obligation is slight.

Promises are often made that bind in fidelity alone. They do not confer any right to the thing promised. However, other promises bind in justice. They confer a right to the thing

promised. The promise is accepted. Then the party to whom it was made may demand the thing promised.

However, this is merely a right to receive the thing promised. It is not the right of a possessor. It is a personal right to demand the thing from the person promising or from his heirs.

Sometimes a person promises something. Then the thing changes notably before the promise is fulfilled. For example, a man has some stock-certificates that are practically worthless. He tells a friend he will give them to him. The friend tells him he will accept them. Suddenly the stock-certificates become very valuable. Then he is not bound to give them. He would never have promised them in the beginning had they been so valuable.

The motive for which a promise was made may disappear. It was really the cause of the promise. Then the promise no longer binds.

For example, a man promises to give a sum of money to a pauper. But the pauper suddenly becomes rich. Then the promise need not be kept. The motive for the fulfilment of the promise no longer exists.

A man may promise something. Later, through no fault of his, it may be impossible to fulfil the promise. Or perhaps the thing promised has become illicit or useless. Then he is not bound to keep his promise.

The person to whom a promise is made may die before it is fulfilled. The donor may have intended especially to help his family. Then he is bound to fulfil the promise for the benefit of the family. But again, he may have intended only to help the person himself. Then he is free from his promise when this person dies.

The person who makes a promise may die before he fulfils it. It may have been a promise to confer material

goods upon another. Then ordinarily his heirs are bound to fulfil the promise. But it may have been a personal promise. Then the heirs are not bound to fulfil it.

Donations confer a right to possess the thing given. A thing once given and accepted can not be recalled.

A man can give only what belongs to him. But a man may be heavily in debt. He may be insolvent. He can indeed make a valid donation. Yet it is unjust to his creditors. He is really giving what belongs to them.

A person receives a donation from a person who is insolvent. But he does not know the other's financial condition. He is then not bound to return the gift.

However, he may know that the giver is insolvent. Then he is bound to return the gift. Otherwise, he unjustily retains what belongs to the creditors of the giver.

Donation takes place by the mutual consent of the giver and the one who receives it. Yet positive law does not always recognize the validity of this donation. It makes the transfer of the gift the essence of the donation.

CHAPTER XXI

Last Will and Testament

PRUDENT men of means generally make a will whilst they are still in good health. A will is a legal document. It contains instructions for the disposition of a man's affairs after death. It is called a last will and testament.

There is a legal form for wills. Yet in certain states and countries private wills are valid. They need only be attested by witnesses. Sometimes even verbal wills are considered valid. They must, of course, be proved by witnesses. It is always prudent to make a will in legal form. This precludes disputes and difficulties.

The heirs are those who receive the rights and property of the deceased. They may be legal or testamentary.

When a man dies intestate the civil law decides who are his heirs. These are called legal heirs. Those who receive the rights and property by will are the testamentary heirs.

Testamentary heirs may be necessary or arbitrary. The law declares that certain persons are entitled to the inheritance. These are necessary heirs. Others receive the inheritance simply because the deceased person wished to leave it to them. They are arbitrary heirs.

Those to whom the positive law concedes the right of inheritance are called the legitimate heirs. Others are called extraneous heirs.

By the law of nature a man's direct descendants are his rightful heirs. However, they may be excluded from the right of inheritance for just reasons.

St. Paul refers to this natural right of heredity. "Therefore now he is not a servant, but a son. And if a

son, an heir also through God."[1] Amongst all nations the son is considered his father's heir.

The heir does not acquire his inheritance at the death of the testator. He acquires it only by accepting it. He may, if he wish, repudiate it.

He who accepts heredity thereby acquires the rights and property of the defunct. But he also assumes his material obligations. He is, however, not bound to pay debts which the inheritance will not cover.

A person may leave something definite directly to a person. This is called a legacy. He may also leave something to him indirectly. He may instruct the heirs to give it to him. Then it is called a commission of trust.

A man may bequeath to a person, as a legacy, real estate or a sum of money. He may bequeath anything of value. The legatee can not take this by his

[1] Epistle to the Galatians iv, 7.

own authority after the death of the testator. He must receive it through the heirs or the court.

A man may make a donation to be given after death. It is called a donation-in-case-of-death. It must have all the requirements that make a donation valid. It can always be recalled before the death of the giver.

The beneficiary of a donation-in-case-of-death may die before the testator. Then the donation is considered as recalled. It does not pass to the heirs of the beneficiary. For the giver is supposed to have had the beneficiary alone in mind.

Bequests for pious purposes are valid. This is determined by canon law. The civil law can not declare them invalid.

Yet there are sometimes restrictions placed upon bequests for pious purposes. The civil law determines these.

These legal provisions do not bind in conscience. It may be even illicit

to follow them. It may have been a man's deliberate wish to leave his property for pious purposes. Thus it would be forbidden to dispose of it otherwise.

Technicalities of the law are sometimes invoked. A man has left a bequest for pious purposes. The heirs contest the will. Perhaps they have the will set aside. This may be an act of grave injustice. It may rob religion of property which rightly belongs to it.

No one is bound to make a will. Yet circumstances may make it obligatory. A person may be bound to make restitution. He may foresee that there will be litigation and scandalous quarreling over his estate. Then he is bound in conscience to make a will.

A will may be changed or revoked at any time by the testator. But the civil law never recognizes a mere promise made not to change a will.

CHAPTER XXII

Bilateral Contracts

THERE are many kinds of bilateral contracts. Amongst them are loans, agencies, buying and selling, rent, stock companies.

Loans are contracts by which one person concedes another the use of something for a time. The former is bound to return the thing after he has used it.

Loans are gratuitous contracts. If something is paid for the use of a thing it is then a rental contract. Yet there is a certain price that is sometimes charged, as it were, outside the contract.

A borrower may receive something for a determined use. Then he must not put it to any other use. Otherwise,

he commits an act of injustice. He is acting against the terms of his contract. He must repair any injury the lender may suffer thereby.

For example, a farmer borrows a horse to drive to the city. He is not permitted to plow with the horse. For he would be acting against the terms of the contract.

A borrower must bear the ordinary expenses attached to the things that he has borrowed. For instance, he must feed a horse that he has borrowed. Yet he would not be bound to pay extraordinary expenses. If the horse became sick he would not be bound to pay for veterinary services.

The borrower must take good care of the thing that he has borrowed. But perhaps he wilfully neglects it. Then he is bound to repair the damage done to it.

Again, he may not have wilfully neglected it. Yet he is condemned in

court to pay damages. He is then bound in conscience to pay them.

The borrower is bound to return the thing borrowed at the time set. The time may not have been explicitly determined. Yet it is understood. Nor is he permitted to return it against the will of the lender before the time set.

Perhaps a borrower keeps something beyond the set time. Then he is bound to repair all injury that it may suffer thereafter. He is also bound to repay the owner for any other loss he may have sustained thereby.

Accidents sometimes happen to borrowed things. For example, a borrowed horse falls and breaks a leg. The borrower was not accountable for the accident. Ordinarily, the lender must suffer all such losses.

But perhaps the borrower had broken the terms of his contract. He had put the horse to another use than that for

which he borrowed it. Then he must pay damages.

Yet the borrower may be blameless. He may have been guilty of no fault or neglect. Then he may allow the matter to go to court. The decision of the law will bind him in conscience.

The thing loaned may have some dangerous qualities. The lender must make these known to the borrower. Otherwise, he is bound to repair any injury the borrower may suffer thereby.

One man lends another a horse. It is a vicious animal. It even runs away. But the lender does not tell this fact to the borrower. Now the horse runs away. The borrower is seriously injured. Here the lender is bound to repair the injury done to the borrower.

Consumptible things may be loaned. They are consumed by the borrower. Then he is bound to repay this loan in kind.

He must return something of the same worth and quality to the lender. For example, a man has borrowed a barrel of flour. He had consumed it. Then he must return another barrel of the same size and quality. Otherwise, he would sin against justice.

The lender of consumptible things may demand remuneration under certain titles. He may lose profit that he might have made on the thing. For this he can demand remuneration.

He may have suffered positive loss by the loan. He runs a certain risk by making the loan. For these reasons he can demand remuneration. Besides, the law permits him to charge a certain tax for his loan. This is called legal profit.

A reasonable price only should be demanded for a loan. This price is determined by custom and the common estimation of men. It should

not be made higher because of the borrower's need.

The price of a loan must be just. It must be based on true values. To charge an exorbitant price because another is forced to borrow is an injustice. The price must be equivalent to the value which the borrower receives from the use of a thing.

Agencies are contracts. An agent is one who conducts affairs in the name of another. A man may act for another either gratuitously or for remuneration.

Agents must diligently and faithfully attend to the affairs committed to them. They must fulfil their commission as faithfully as if the business were their own.

Agents must keep within the limits of their authority. If they go beyond their limits they are bound to repair damages that may follow.

Agents are sometimes called business representatives. They conduct business for others. They are bound to give the profits of their efforts to the proprietor. Not so, however, if they have special agreement to the contrary.

Sometimes a business representative wilfully neglects his affairs. Then he must repair the loss that the proprietor may suffer thereby.

He who employs an agent has certain obligations. He must fulfil all the just obligations that his agent contracts for him. These obligations must be such only as the agent is empowered to contract.

He must pay the ordinary and necessary expenses which the agent makes in fulfilling his commission. The agent may have failed in his undertaking. But he did not wilfully neglect his affairs. Then, too, his expenses must be paid.

A man may sometimes act in an-

other's name without authorization. He presumes that the other would wish him to act if he knew the circumstances.

For example, a man feeds and cares for another's animal that has strayed away. The owner has not authorized him to do so. Yet he must pay him for his work and the expense of caring for the animal.

CHAPTER XXIII

Interest and Usury

MONEY loans are very common in all countries. One man lends money to another. The other is bound to repay him the full amount.

Properly speaking, money has no earning power. A fruit tree bears fruit. A field produces crops. But money does not, of its own nature, produce money.

In another and improper sense, money is said to have earning power. It can be exchanged for things that bear fruits. It can be used as a means and an instrument of profit.

The plow does not produce crops. Yet it may be used as an instrument. Coupled with labor it helps to make the soil produce crops. Hence, it has a productive value.

Money receives its earning power from commerce. In ancient times there was little or no commerce as we understand it today. Exchange of commodities was made. Then money had no earning power. But today it actually possesses earning power.

Money may be considered merely as a medium of exchange. In this sense it has no earning power. It is a mere pledge that one commodity will be exchanged for another.

In ancient times money was a mere medium of exchange. It was then an injustice to demand interest for a money loan. Hence, the Sacred Writer could say: "If thy brother be impoverished . . . take not usury of him nor more than thou gavest."[1]

In past ages the Church condemned all interest on money loans as usury. It was a sin to demand more than had been given in the loan. But at that

[1] Leviticus xxv, 35, 36.

time money was considered merely as a medium of exchange.

In modern times money has taken a new nature. Money has now become the chief form of capital. It may be exchanged for all kinds of productive property.

Thus money has become an instrument for the production of wealth. This is due to the modern capitalistic system. This system became universal little more than a century ago. It gave a new character to money. It made it a fructifying commodity.

Under present economic conditions it is lawful to receive a price for money loans. He who lends his money to another deprives himself of a certain value. The money might have brought profits to him. Hence, he can demand a price for the use of it.

The price charged for the use of money must be moderate and just.

To charge an exorbitant price is a sin of injustice. It is usury.

We may be bound in charity to lend money to another. He may be in great need. He may be unable to pay interest. Charity may bind us even to make him a gratuitous loan. "Give unto him that asketh of thee," says Holy Writ, "and from him that would borrow of thee turn not away."[2]

Thus is expressed the precept of charity to give and to lend. It does not mean promiscuous giving and lending. It means that we are bound to help our neighbor in his necessity.

The price demanded for a money loan is called interest. There are three kinds of interest. It may be legal, common or conventional.

In some countries the law determines the maximum interest that may be demanded. This regulation binds in conscience. Those who exceed the

[2] St. Matthew v, 42.

limits prescribed by law are bound to restitution. They may, however, be excused from restitution if the loan was an extraordinary risk.

The rate of interest is generally established by custom. This is called common or ordinary interest. This ordinarily exists where there is no legal rate of interest. To exceed the common rate of interest is generally a sin of injustice. Sometimes special conditions make a higher rate licit.

The borrower and the lender sometimes mutually agree upon the rate of interest. This is called the conventional rate of interest. It exists where there is neither a legal or a common rate of interest. There may be special conditions that permit a higher rate. Otherwise, it is unjust to exceed the conventional rate.

The rate of interest can not be definitely determined. It is established

according to conditions of time and place. Ordinarily, a yearly rate of six percent is considered just. However, a much higher rate is considered just in some places.

Under certain conditions a rate of ten or even twenty percent might be considered just. The loan might be a very great risk. But this would be considered a very unjust rate if it were fixed because of the borrower's necessity. It would be usury.

Usury is unjust gain made from loans. It is excessive interest. In ancient times all interest was usury. For then money was not productive.

Usury is forbidden by the natural law. It is also forbidden by the positive law of God and by the law of the Church. "He that giveth upon usury, and that taketh an increase; shall such a one live? He shall not live. Seeing he hath done all these detestable

things, he shall surely die; his blood shall be upon him."[3]

The Fifth Lateran Council (1515) condemned usury as the practice of those who "without labor, without expense, and without danger, seek gain and profit from a non-productive thing."[4]

Today the Church condemns only excessive interest. This is the sin of usury. It is a sin against justice. Those who are guilty of usury are bound to restitution.

[3] Ezechiel xviii, 13.

[4] Denziger, Enchiridion, n. 623.

CHAPTER XXIV

Buying and Selling

BUYING and selling is a contract. One party agrees to give certain goods. The other agrees to pay a price for them.

The buyer has certain rights. He must receive the thing that he wishes to buy. The thing may indeed be physically different. Yet it must be morally the same. Else the sale is invalid.

For example, a person wishes to buy a bottle of medicine. A different kind of medicine may be given him. It produces the same effect as the other. This is morally the same. For it is as good and useful to the buyer. Hence, the sale is valid.

The seller must observe certain laws.

He must sell only what he has a right to sell. He can not sell another's property in his own name.

He should sell only honest wares. To sell adulterated goods as pure is a sin of injustice.

Wares may have defects. Some are substantial defects. They render the wares almost useless to the purchaser. These defects must be revealed. Otherwise the sale would be unjust.

Other defects are accidental. They do not make the wares less useful to the buyer. These the seller ordinarily need not mention.

But the buyer may ask whether some special defect exists in the wares. It may be only an accidental defect. Then the seller must admit that it is there. Otherwise, the contract of sale is not valid. The buyer may return the goods and demand his money.

But the seller has perhaps reduced the price because of a defect in the

goods. Then the sale is a valid contract.

In some cases it is understood that the buyer must discover the defects for himself. The seller does not profess to sell him a perfect article. He intends to sell him the thing as it is.

This often happens in the sale of horses. The buyer must examine the horse. The seller does not guarantee that the animal is sound. The buyer takes the horse at his own risk. Thus the seller is not bound to reveal the blemishes.

But perhaps the seller declares that the horse is perfectly sound. He sells him as such. The buyer takes him because he is a sound horse. But he finds later that the animal possesses a serious blemish. He may then return the horse and demand his money. The contract of sale was not valid.

Sometimes the buyer does not know the value of the thing. He offers more

than the highest possible just price. Then the seller is bound to tell him the true value of the thing. Otherwise, the sale is unjust.

The seller must deliver the goods as they were when he sold them. He must turn them over to the buyer in the manner, time and place expressly stipulated in the sale. If these conditions are not fulfilled, the buyer may rescind the contract. He may also demand reparation for the damages he has suffered.

The seller must secure the buyer in the possession of the property. He must put him in peaceful possession of it. He must give him a good title to it. He must make him the true owner of the thing he has sold to him.

The buyer has certain obligations. The seller may not know the value of his goods. They may be far more valuable than he thinks. This is known to the buyer. Here ordinarily he is

bound to advise the seller. At least, he is bound to offer him a just price for the goods.

The buyer must pay the stipulated price. This he must do at the time fixed. If no time is fixed or understood he must pay when the goods are delivered.

The buyer is bound to accept the goods that he has bought. This he must do at the time fixed. If no time has been fixed the seller may demand immediate acceptance of the goods and payment of the price.

CHAPTER XXV

The Just Price

PRICE is the money value of a thing. The value of things is fixed by the common estimation. A price is just when it is considered equivalent to the value of the thing.

Prices may be established by public authority. These are called legal prices. Laws that fix prices on commodities bind in conscience. To break such a law is an offense against commutative justice.

Prices are generally fixed by the common estimation of men. Such prices are called ordinary or common prices. They are divided into three classes. They are the highest, the medium and the lowest price.

Where there is no legal price, the

common price is just. Price is based on the common estimation of men in a particular time and place. In some barbarous countries pieces of glass are considered more precious than nuggets of gold. Hence, it would be just to exchange glass for gold with those people.

Anything may be justly bought or sold within the limits of the common price. It is unjust to charge more than the highest common price. The excess in price must be restored to the buyer.

It is also unjust to buy anything for less than the lowest common price. Here restitution must be made to the seller.

A price must not exceed the highest common price. Yet it may be unjust for other reasons. The seller may have deceived the buyer by fraud and falsehood. Thus the buyer is led to

pay a higher price than he would otherwise have paid.

There may be reasons that justify the demand for an extraordinary price. The seller may have wished to preserve his wares for the future. He may have been attached to his possessions. In these cases the seller may justly charge more than the highest ordinary price.

Under certain conditions the buyer may justly pay less than the lowest common price. The seller may freely offer to sell his article. Things offered for sale are cheapened.

The buyer and seller may agree upon a price. This is called a conventional price. There are things for which no common price exists. Such are works of art, antiques, rare books, manuscripts and many other things. An arbitrary price is placed upon these things. It is determined by the mutual consent of buyer and seller.

Auction sales often take place. They

may be legal or private sales. They must always be conducted according to the rules of justice.

The seller must render the article to the highest bidder. It matters not how low the price may be. Yet articles are sometimes withdrawn from sale when the bids are too low. This may be justly done when custom or agreement permits it.

It is unjust to have hired bidders in the crowd. They do not intend to buy. They intend to increase the price on the honest bidders. Hence, they are guilty of fraud.

Bidders sometimes try to dissuade others from bidding against them. They are then guilty of a twofold injustice. They are acting unjustly toward the seller. They are also acting unjustly toward the buyer whom they have deterred from bidding.

"As, on the one hand a sale at auction may be fraudulent as against

the purchaser, by reason of the enhancement of the price by means of fictitious bids; so, on the other hand, it may be fraudulent as against the owner of the property, when parties are deterred from bidding by false representations."[1]

Monopolies are sometimes established by public authority. They are called legal or governmental monopolies. Governments sometimes reserve to themselves the exclusive right to sell certain commodities. For instance, Austria maintains a monopoly on tobacco. Such monopolies are in themselves licit.

There are private legal monopolies. Such are the rights conferred by patents and copyrights. These monopolies are licit. Yet those who possess them sometimes use them to obtain exorbi-

[1] "Principles of Equity," Bispham, Kay & Bros., Philadelphia, 1882.

tant prices. Then they sin against justice.

There are also monopolies established by private authority. These are called monopolies of fact.

Private monopolies are sometimes formed through trusts and combinations of companies. In themselves private monopolies are not opposed to justice. Yet they place a dangerous power in the hands of a few. They afford a temptation to impose unjust prices upon the public.

Private monopolies are a great evil in modern society. Too often they are used as a means of exacting exorbitant prices from the people.

A number of large companies combine. They gain control of a necessary commodity. Then they fix arbitrary prices. They burden the poor with their unjust rates. They make fabulous profits.

Monopolies often practice injustice

upon their small competitors. Sometimes they force them to sell their product to them at a very low price. Perhaps they force them into insolvency. Those who take part in such injustice are bound to restitution.

Those who enrich themselves from the profits of unjust monopolies certainly possess "tainted wealth." Their money is the fruit of criminal business methods.

CHAPTER XXVI

Stock Companies

COMPANIES are formed for the purpose of carrying on business or other concerns. They obtain a legal charter. They thus become licensed corporations. They need money for equipment and other purposes. They issue stocks. These are sold. Thus such corporations are called stock companies.

The sale of stock must be just and honest. The sellers must give value received. They must be truthful with prospective buyers. They must give them an adequate return for their money.

Stock companies are sometimes formed unjustly. A few men decide to form a company. They issue a large amount of stock. Perhaps they

sell half of it. The rest they retain for their own portion. This in an injustice. It entails the obligation of restitution.

The promoters of a company are justified in taking a reasonable amount of stock for their work. Yet they are not justified in deceiving those who buy stock. The buyers generally ask for details. They should be told how much is to be spent for organization. Otherwise they are being deceived.

Those who take an unjust portion of stock are bound to restitution. They are practicing fraud and injustice upon others.

There is another injustice sometimes practiced in stock companies. The company has been formed. It has certain assets. These are given a fictitious price. Then there is a reorganization. Much extra stock is issued. This is called "stock watering." It is a system of fraud and theft.

The purchasers of stock are deceived. They often buy stock of little or no value. The promoters enrich themselves with the proceeds from the sale of stock. They are then bound to restitution.

Other deceit is sometimes practiced in the sale of stocks. The seller describes to prospective buyers fabulous opportunities. Perhaps he tells them of a wonderful gold or silver mine. He tells them that it is ready to produce great wealth as soon as sufficient capital can be obtained. Many such tales are told to deceive the buyer. This is a grave injustice. It is theft or robbery. Those who commit it are bound to restitution.

A contract of sale based upon deceit is invalid. The buyer may demand the return of his money. This is also decreed by civil law.

"The rules in regard to fairness in representations are to be particularly

observed in the prospectuses of projected companies. The utmost candor and honesty ought to characterize such public statements. Those who issue a prospectus holding out to the public the great advantages that will accrue to the persons who enter into a proposed undertaking, and inviting them to take shares upon the faith of the representations therein contained are bound to state everything with strict and scrupulous accuracy, and not only to abstain from stating as a fact that which is not so, but to omit no one fact within their knowledge, the existence of which might in any degree affect the nature, or extent, or quality of the privileges and advantages which the prospectus holds out as an inducement to take shares. If it can be shown that a material representation, which is not true, is contained in the prospectus, or in any document forming the foundation of the contract between

the company and the shareholder, and the latter comes within a reasonable time, and under proper circumstances, to be released from that contract, the courts are bound to release him from it."[1]

Sometimes stock companies are formed for the purpose of carrying on unjust business. Here the stockholders are bound collectively to repair all damage done to others.

The shareholders partake of the profits made by the company. In the same proportion they must repair the unjust injury done by the company.

The directors of stock companies should deal honestly with all stockholders. They should give them a clear and honest report. They should strive to care for their interests. They should protect their investment.

The simple-minded are often induced

[1] "Principles of Equity," Bispham, Kay & Bros., Philadelphia. 1882.

to invest their little savings in diverse adventures. Soon they learn that they have lost their money.

Those who buy stock in unknown concerns practically hand their money over to strangers. At once they lose control of it. The controlling interests of the company use it as they will.

The inexperienced should buy stocks only from a man whose honesty is incontestable. He should be so honest that they would be willing to entrust their money absolutely to him.

CHAPTER XXVII

Contracts of Chance

BETTING or wagering may be a just contract. Two or more men take different views of a future event. They forecast the event. They place something of value on the issue. It goes to him who has forecasted correctly. He is the winner of the bet or wager.

The essence of a bet consists in the uncertainty of the event. The issue must be uncertain in some sense to both parties to the bet. Otherwise, the bet is not just.

However, one party may be absolutely certain of the issue. He tells the other party that he knows with certainty how the event will turn out. But still the other is willing to wager with him. Then the bet is just.

One party to the bet may know the issue with certainty. But he pretends to have some doubts about it. Then the bet is unjust. He is bound to restitution.

In itself an honest bet is licit. Yet betting is a dangerous practice. Too often it leads to other evils. It may even lead to injustice and dishonesty. In time it generally entails serious losses.

Gambling is a great evil in our day. In itself it is not essentially evil. It is in reality only betting upon the issue of a chance.

Cheating and fraud are often practiced in gambling. It then becomes an unjust contract. The defrauder is bound to restore his ill-gotten goods.

There must be some sort of proportion between gamblers. All must have a chance to win. Otherwise, it is unjust. Thus a man may be a professional gambler. He plays with one

who knows little about the game. He is certain that he will win. His action is unjust. He is bound to restore the gains to the loser.

One man may be simply a more skillful player than another. But by deceit he induces the less skillful player to enter the game with him. Then he is bound to make restitution of his winnings.

One may know that a certain other is more skillful. Yet he willingly plays with him. Here no injustice is done him. The more skillful player may even induce the other to play with him. So long as he uses no deceit he is not acting unjustly.

Another injustice is sometimes practiced. A man plays with a half-intoxicated person. This is unjust. He is bound to restore the winnings to the loser. The same is true if he has used threats to induce another to play for money.

It is an act of injustice to gamble with another's money. If, however, a man has played with another's money, he may keep the winnings. Yet if another won this money he must return it to the rightful owner. The loser is then bound to repay him.

Sometimes a man plays who would be unable to pay if he lost. But perhaps he wins. Then he can not justly demand the winnings from the loser. For the contract was unjust. The loser had no chance to win.

Gambling may be evil and yet contain no injustice. Then the winner may retain his gains.

Gambling is the cause of many evils. Many young men are ruined by this practice. It often leads to drunkenness and dishonesty. It has ruined many happy homes. It has impoverished many families.

Speculation in the stock exchange is a form of gambling. It is a dangerous

practice. It causes many failures. It should be avoided like any other form of gambling.

In themselves the operations of the stock exchange are not illicit. Yet they are often illicit in fact. Unjust means are sometimes used to increase or diminish prices.

Perhaps false rumors are spread broadcast. There is a flurry in the market. Prices drop suddenly. Again, prices are raised by other reports. Thus injustice is practiced upon speculators.

Men sometimes tamper with the market. They cause prices to rise. The poor suffer by their actions. Thus they sin against charity.

Lottery is a contract of chance. A person pays a certain price for a chance to win a prize. This chance is greater or smaller in proportion to the number of the participants.

Lotteries are open to many abuses.

Hence, they are generally forbidden by law. They are often used merely as a means to deceive the simple-minded. They are sometimes used to defraud the inexperienced of their money.

Insurance is a contract of chance. It is looked upon as an honest business in the modern world.

Everything is insured today. Real estate, wares, personal property and life. Men are insured against injury, theft, sickness and all kinds of losses.

To be just the insurance contract must fulfil certain conditions. There must be a due proportion between the premium paid and the risk taken. The amount of the risk does not depend upon the ultimate event. It depends upon the lesser or greater probability of loss.

Those who take out insurance must declare the whole risk. Nor should they allow this risk to become greater

after the insurance policy has been issued.

The one who insures must have means to cover the losses of the insured. Otherwise, the contract would be unjust. He would be obliged to return the premium.

An insurance company is not bound to pay losses that arise from any grave fault of the insured. Nor is it bound to pay those losses that are caused by other beneficiaries of the policy.

The company must pay for all the loss that the insured suffers. Payment must be made as stipulated in the policy.

Partial losses are generally estimated by adjusters. These sometimes award more than the actual loss. This excess may be justly accepted by the insured. Yet he would act unjustly if he demanded more than the actual loss.

There are many kinds of life insurance. There are societies that insure

the lives of their members. There are companies that make a business of life insurance. In all these there are diverse kinds of policies.

Applicants for insurance are required to undergo a medical examination. They are also bound to answer certain questions that are proposed to them.

Deceit is sometimes practiced by those who apply for insurance. This may be substantial. It would then render the contract invalid.

Thus a man may have had a hemorrhage. His parents may have died of tuberculosis. But he conceals these facts. Then the contract is invalid. He commits an injustice. He is bound to repair any losses he has caused the company.

But perhaps a man in good faith fails to reveal an important fact. It is sufficient to render his contract invalid. Then he may demand the return of the premium he has paid.

An applicant for insurance may deceive the company as to his age. Yet this rarely embraces a notable length of time. Other deceits of minor moment are practiced. They are wrong indeed. Yet they do not render the contract invalid. The company is bound to pay the insurance when it becomes due.

Some companies stipulate that any error made in the responses given to their questions invalidates the contract. This condition is unjust. The insured should not be deprived of his rights because of a slight error.

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